TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 220.

ELI ALLORE, APPELLANT,

vs.

MARSHALL JEWELL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

FILED OCTOBER 31, 1874.

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1 To the judges of the circuit court of the United States for the eastern district of Michigan:

Humbly complaining, your orator, Eli Allore, a citizen of the village of Newport, county of Monroe, of said State of Michigan, brings this his bill of complaint against Marshall Jewell, a citizen of the city of Hartford, in the State of Connecticut, and respectfully shows unto this honorable court that he was, in her life-time, a nephew of the late Marie Genevieve Thibault, an alleged lunatic, now deceased, who died intestate, in the city of Detroit, in said county of Wayne, on or about the 4th day of February, 1864, and that your orator, as such, is the sole surviving heir at law of her estate; that, for twenty-eight years and upwards, prior to the 24th day of November, A. D. 1863, she had been seized in fee simple of the real estate and premises hereinafter described, which she occupied as a homestead; that, during the last few years of the life-time of the said Marie Genevieve Thibault she was afflicted with lunacy or a chronic insanity, and was, besides this, aged and in-
2 firm, so that she was unfit for and incapable of transacting any business of importance; that, besides these infirmities, in the fall of 1863 she was, as he is informed and believes, taken sick and went into a rapid decline and was confined to her house and bed, which greatly weakened her mental faculties, aggravated her insanity, and rendered her still more unqualified to transact business, and rendered her recovery hopeless.

And your orator further shows, on information and belief, that, afterwards, on the 24th day of November, A. D. 1863, while she was in this unfit condition, and was so sick and infirm that there was no prospect of her recovery, (it being only a few weeks previous to her death, as aforesaid,) the said defendant, Marshall Jewell, through the assistance and instrumentality of his agent, Levi E. Dolsen, in whom the said Marie Genevieve Thibault reposed great confidence as a neighbor and supposed friend and adviser, fraudulently, and for a nominal and inadequate consideration, obtained from her a written conveyance of all her real estate, hereinafter described, of the value at that time of eight thousand dollars, or thereabouts; that the said conveyance, which
3 embraces a description of said real estate, is in the words and figures following, to wit:

"This indenture, made this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and sixty-three, between Mary Jenevieve Thebeau, of Detroit, Michigan, of the first part, and Marshall Jewell, of Hartford, Connecticut, of the second part, witnesseth:

"That the said party of the first part, for and in consideration of the premises and undertakings on the part of the party of the second part, hereinafter made and named, and in consideration of two hundred and fifty dollars, to her in hand paid by the party of the second part, the receipt of which is hereby confessed and acknowledged, does by these presents grant, bargain, sell, remise, release, alien, and confirm unto the said party of the second part, and to his heirs and assigns forever, the following pieces or parcels of land, viz: A certain lot or piece of ground, situate in the township of Springwells, county of Wayne, and Territory of Michigan, being fifty in front, on the highway, opposite the residence of Widow Laffertie, pursuing along the northeast side
4 of the alley between John R. Williams' ground and the Laffertie ground, leading down and to the river Detroit, the said lot being fifty feet front and rear, or whatever depth there may be, more or less, from the public highway to the river Detroit; the said lot being part of

the lot conveyed by Charles Cabacier and wife to John R. Williams, who sold to John Andrews, as per deed of 3d day of December A. D. 1832, recorded in the registry of deeds, Wayne County, liber No. ten, folios 555 & 556, December 4th 1832, the above description being the same as that contained in deed from John Andrews and wife to the party of the first part herein, recorded in the office of register of deeds for the county of Wayne, and State of Michigan, in liber No. 11, folios 320 & 321, and the property described in said last-mentioned deed being the property hereby intended to be conveyed. Also, all that certain lot or parcel of land lying and being situate in the county of Wayne aforesaid, formerly part of the farm of Charles Cabacier, deceased, bounded and described as follows, to wit: Bounded in front, on the Springwells road, so called, forty-eight feet, more or less; on the southwest by a lot formerly
5 owned by John Andrews, one hundred and forty & $\frac{50}{100}$ths feet by a twenty-feet alley, more or less; on the southeast or river-side by said twenty-foot alley, and running along the line of said alley forty-eight and $\frac{51}{100}$ths feet, more or less; and on the northeast by the division-line between this lot and lot number two, one hundred and thirty-three and one-half feet, to the road aforesaid; the said lot being numbered one on the plat of building-lots and water-lots in front of the farm of Cabacier, near the city of Detroit, the property of John R. Williams; and the said plat being recorded in the office of the register of the county of Wayne, reference being had thereto, this said last-described property being the same property conveyed by deed of John R. Williams (now deceased) to the party of the first part herein, which property it is the intention of the first party herein to convey by this deed to the party of the second part, and which deed from said Williams is recorded in the office of the register of deeds for said Wayne County, in liber 13, at folios 109, 110, & 111, together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining. To have and to hold the said premises as above described, with the appurtenances, unto the said party of the second part, and to
6 his heirs and assigns forever. And the said party of the first part, her heirs, executors, administrators, or assigns, do covenant, bargain, and agree to and with the said party of the second part, his heirs and assigns, that at the time of the ensealing and delivery of these presents she is well seized of the above-granted premises in fee-simple, that they are free from all incumbrances whatever, and that she will, and her heirs, executors, administrators, and assigns shall, warrant and defend the same against all lawful claims whatever, in consideration of which and as consideration for which the party of the second part hereby agrees to pay to the party of the first part, upon the delivery of these presents, two hundred and fifty dollars, and to pay her thereafter each year during her natural life, in semi-annual payments, in advance, the sum of five hundred dollars as an annuity; the party of the second part also agrees and covenants to pay all physician's bills for medical attendance upon the party of the first part during her natural life, and to pay the taxes on said property for the year 1863, and all taxes on the same thereafter during the natural life of the party of the first part.

"It is also agreed and covenanted on the part of the party of the
7 second part that the party of the first part may have the use and occupancy of the house now occupied by her on said premises until the spring of 1864, if she desires to occupy the same; and that if she shall prefer to abandon said house before that time, the party of the second part agrees to pay the rent of such house as she may occupy until the spring of 1864.

"In witness whereof the said parties have hereunto set their hands and seals the day and year first above written.

(S'g'd) "MARIE THIEBEAU, [SEAL.]
(S'g'd) "MARSHALL JEWELL, [SEAL.]

"Signed, sealed, & delivered in presence of—
(S'g'd) "E. W. MEDDAUGH.
" "L. E. DOLSEN."

"STATE OF MICHIGAN,
"*County of Wayne, ss:*

"On this 24th day of November, one thousand eight hundred and sixty-three, before me a notary public in and for said county, personally came the above-named Mary Jenevieven Thibeau, known to me to be the person who executed the foregoing instrument, and acknowledged the same to be her free act and deed.

(Signed) "E. W. MEDDAUGH,
"*Notary Public, Wayne County, Mich.*

8 And your orator further shows, upon information and belief, that the said defendant, and especially his agent, the said Levi E. Dolsen, with whom the principal negotiations for said conveyance were made, well knew at and before the time of the execution of said conveyance, that the said Marie Genevieve Thibault was a lunatic, and was then in the sick, infirm, and mentally unsound condition as above described, and that she had no reasonable prospect of recovery, or of long surviving her condition; that she did not understand the nature of the conveyance which she thus executed, and expected that the said real estate would at some time revert to herself or her heirs, and that she never lived to receive any other payment than the said sum of two hundred and fifty dollars paid on the execution and delivery of said conveyance.

And your orator further avers that the said conveyance was thus fraudulently obtained from her, for a consideration wholly inadequate and insignificant, with a proper knowledge of her mental and physical disabilities for so important an act, and with an assured prospect of her speedy decease, and that the same was obtained in a
9 clandestine manner without affording her the advice of her neighbors and friends.

And your orator further shows, on information and belief, that the said defendant has been since the decease of the said Marie Genevieve Thibault, and is now, in the possession of said real estate and premises above described, under the title fraudulently acquired as above set forth, and that a fair rental value of said premises during said period, is one thousand dollars per year or thereabouts.

Whereupon, your orator prays that this court will declare the said written conveyance to be void, and decree that said defendant produce said written conveyance, and deliver it up to this court to be cancelled, and that he render a just and reasonable account for the use and occupancy of the lots or real estate described in said conveyance, since the date of the same, and make payment of the amount of said account to this honorable court, and that besides his costs for this suit, your orator may have such other or further order or relief in the premises as shall be agreeable to equity.

To the end, therefore, that said defendant may, if he can, show
10 why your orator may not have the relief hereby prayed, and may, without oath, his answer under oath being hereby waived, full;

true, direct, and perfect answer make to all and singular the matters herein contained, may it please this honorable court to grant to your orator the writ of subpœna of this court, directed to the said defendant, Marshall Jewell, commanding him at a certain day and under a certain penalty therein to be inserted, personally to be and appear before this honorable court, then and there to answer, all and singular the premises, and to stand to and abide by and perform such order and decree therein as shall seem agreeable to equity and good conscience.

And your orator will ever pray, &c.

(Signed) ELI ALLORE.

ROBINSON & BROOKS,
Solicitors & of Counsel for Complainant.

STATE OF MICHIGAN,
County of Monroe, ss:

Eli Allore, being duly sworn, says that he has heard read
11 the foregoing bill of complaint, and knows the contents thereof, and that the same is true, of his own knowledge, except as to the matters which are therein stated to be on his information and belief, and that as to those matters he believes it to be true.

(Signed) ELI ALLORE.

Subscribed and sworn to before me this 19th day of November, A. D. 1870.

(Signed) JOSEPH CARR,
A Notary Public in & for Monroe Co., Michigan.

12 Copy of the within bill served upon the undersigned this 21st November, 1870.

(Signed) MEDDAUGH & DRIGGS,
Sols. for Deft.

(Indorsed:) No. 1469, circuit court of the United States for the eastern district of Michigan. In chancery. Eli Allore, complainant, vs. Marshall Jewell, defendant. Bill filed in clerk's office, Nov. 21st, 1870. (Signed) A. Mandell, clerk. Robinson & Brooks, solicitors for complt., Detroit, Mich.

13 *Chancery subpœna.*

Circuit court of the United States of America for the sixth circuit and eastern district of Michigan, sitting in chancery.

[L. S. SUBPŒNA.] The President of the United States of America to Marshall Jewell, who is a citizen of the State of Connecticut.

You are hereby commanded to be and appear in the circuit court of the United States of America for the sixth circuit and eastern district of Michigan, sitting in chancery, before the judges thereof, at the district-court room, in the city of Detroit, on the first Monday of December next ensuing, then and there to answer unto a bill of complaint exhibited against you as defendant, by Eli Allore, who is a resident of the eastern district and a citizen of the State of Michigan, as complainant, and this you shall in no wise omit, under the penalty of one thousand dollars.

Witness the Hon. Salmon P. Chase, Chief-Justice of the Supreme

Court of the United States, this twenty-first day of November,
14 in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States the twenty-fifth.
(Signed) ADDISON MANDELL, *Clerk.*

MEMORANDUM.—The above-named defendant is required to enter his appearance in this suit with the clerk of this court, at his office in the city of Detroit, on or before the day to which this writ & subpœna is returnable, otherwise the bill of complaint in this cause will be taken *pro confesso* against said defendant.
(Signed) ADDISON MANDELL, *Clerk.*

I hereby accept service of the within subpœna.
(Signed) MARSHALL JEWELL.

(Indorsed:) No. 1469, circuit court of the United States for the sixth circuit and eastern district of Michigan. In chancery. Eli Allore, complainant, *vs.* Marshall Jewell, defendant. Subpœna returned & filed in clerk's office Dec. 3d, 1870. (S'g'd) A. Mandell, clerk. Robinson & Brooks, complainant's solicitor, of Detroit, Michigan.

15 The circuit court of the United States for the eastern district of Michigan. In chancery.

The answer of Marshall Jewell, defendant, to the bill of complaint of Eli Allore, complainant:

This defendant, reserving to himself all right of exception to the said bill of complaint, for answer thereto, says:

He admits the citizenship and residence of the parties to said bill as therein alleged. He does not know whether the said complainant was, in her life-time, the nephew of said Marie Genevieve Thibault, as in said bill alleged, but has been so informed. He therefore neither admits nor denies the same, but leaves complainant to his proof. He admits that said Marie Genevieve Thibault died intestate, on or about the 4th day of February, 1864, as in said bill alleged. He does not know, and cannot state whether complainant is the sole surviving heir of said Marie Genevieve Thibault, as in said bill alleged. He therefore neither admits nor denies the same, but leaves complainant to his proof. He admits that said Marie Genevieve Thibault had been the owner of the premises
16 described in said bill for the time stated therein, and that she had occupied the same as a homestead. He admits that, for some time prior to her death, the said Marie Genevieve Thibault had been in poor health, but denies that she was afflicted with lunacy, or chronic insanity, or was so aged and infirm as to render her incapable of transacting business of importance, or that she was so afflicted or incapable in the fall of 1863. He admits that, on the 24th day of November, 1863, he received from the said Marie Genevieve Thibault the written conveyance, a copy of which is set forth in said bill of complaint, but denies that the said Marie Genevieve Thibault was then in an unfit condition, by reason of age, or sickness, or insanity, to give the same, or that said conveyance was obtained fraudulently, or for a nominal and inadequate consideration, or that the value of the property so conveyed was $8,000, but avers that said property was not worth over $5,000. He denies that said Levi E. Dolsen acted as his agent in negotiating with said Marie Genevieve Thibault for the purchase of said property, and that either he or this defendant knew at or before the time of the execution of said

17 conveyance that the said Marie Genevieve Thibault was a lunatic or mentally unsound, or that she had no reasonable prospect of recovering from the state of health she was then in. He denies that said conveyance was fraudulently or clandestinely obtained from the said Marie Genevieve Thibault, or that the consideration therein stated was inadequate or insignificant under the circumstances. He denies that said Marie Genevieve Thibault did not understand the nature of the conveyance which she executed, or that she expected that said property would ever revert to her or her heirs, but admits that she did not live to receive but one payment of $250, as in said bill stated.

And this defendant, further answering, says that he is informed and believes that said Marie Genevieve Thibault was, in the fall of 1863, between sixty and seventy years of age; that she was then and had been for several years in poor health; that she was not so unwell as to be confined either to her bed or her house, but lived alone, taking care of herself, doing her own work, and managing her own affairs; that she

18 was owner of the premises described in said conveyance, but had no other property; that said property had a small and poor house upon it and yielded her no revenue; that she was wholly neglected and deserted by complainant and all her other relatives, if any she had, and received no aid or support from him or them; that complainant was a worthless and shiftless person, paying no attention to her wants and necessities, and that long prior to the conveyance of said property to this defendant she had declared her purpose not to permit said complainant ever to come into the possession or ownership of it.

Defendant further says that, some time prior to November 24th, 1863, said Marie Genevieve Thibault, being so circumstanced, proposed, through said Levi E. Dolsen, to sell said property to this defendant in consideration of an annuity of $500 per year during her natural life; that this proposition was accepted by this defendant, and on said 24th of November, 1863, the conveyance set forth in said bill was executed by the said Marie Genevieve Thibault to this defendant; and at the same time a mortgage on said premises given back by this defendant to her to

19 secure the payment of said annuity of $500 and the performance of the other covenants on his part assumed in said conveyance; that said conveyance was not fraudulently or clandestinely obtained from the said Marie Genevieve Thibault; that it and said mortgage were read and explained to her in the French language by the said Dolsen, and that she thoroughly understood and appreciated the same; that the said Marie Genevieve Thibault was then in full possession of her mental faculties, appreciated the value of said property, was capable of contracting in reference to it, of selling or otherwise dealing with it, and that in the entire of said transaction, she fully understood what she was doing, and entered into it with an intelligent view to her own best interests; that the giving of said conveyance was voluntary on her part, and was unsolicited by this defendant or by any one else in his behalf.

This defendant further shows that, after the death of said Marie Genevieve Thibault, an administrator was duly appointed of her estate; that, in addition to the said sum of two hundred and fifty dollars paid to her for said property by this defendant as aforesaid, there came into

20 the hands of the administrator only thirty-one dollars and fifty cents; making the sum-total of the value of said estate two hundred and eighty-one dollars and fifty cents; that the debts proved and allowed against said estate, which were paid by said administrator, amounted to one hundred and sixty-eight dollars and eight cents; that

the balance of said sum of two hundred and eighty-one dollars and fifty cents was paid under the order of the probate court by said administrator to said complainant as the heir at law of said Marie Genevieve Thibault; that said complainant has never tendered or paid to this defendant said sum of two hundred and fifty dollars paid by him to said Marie Genevieve Thibault, for said property as aforesaid, nor any part thereof; that, since the death of said Marie Genevieve Thibault, this defendant has been in the occupation of said property, & has paid large sums of money for taxes ordinary and extraordinary on account thereof.

Defendant further says that, since said conveyance to him, he has made permanent improvements in said property of the value of over seven thousand dollars; that, until the commencement of this suit, said complainant has given this defendant no notice of his claim to said property, but has knowingly permitted this defendant to put up
21 buildings, and make valuable improvements thereon, as aforesaid; that the rental value of said property at the time said conveyance was made did not equal the yearly taxes on it.

All which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) MARSHALL JEWELL.

MEDDAUGH & DRIGGS,
Sol's for Deft.

22 (Indorsed:) No. 1469. U. S. circuit court, E. dist. of Michigan. In chancery. Eli Allore, compl't, vs. Marshall Jewell, deft. Answer. Filed in clerk's office Dec. 3d, 1870. (S'g'd) A. Mandall, clerk. Meddaugh & Driggs, sol'rs for deft.

23 Circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMP.,
vs.
MARSHALL JEWELL, DEFT.

It is hereby stipulated and agreed that the testimony in this cause shall, with the consent of the judge of said court, be taken in open court, with the aid of a stenographer, and that the expense of the stenographer be taxed as taxable costs in this cause.

Detroit, Dec. 5th, 1870.

(S'g'd) ROBINSON & BROOKS,
Solr's for Comp.

(S'g'd) MEDDAUGH & DRIGGS,
Solr's for Defendant.

24 (Indorsed:) No. 1469. Circuit court for U. S., E. dist. of Mich. In chancery. Eli Allore, comp., vs. Marshall Jewell, deft. Stipulation to take testimony in open court. Filed in open court Dec. 20th, 1870. (S'g'd) A. Mandell, clerk.

25 *Replication.*

The circuit court of the United States for the eastern district of Michigan. In chancery.

The replication of Eli Allore, complainant, to the answer of Marshall Jewell, defendant.

This repliant, saving and reserving to himself, now and at all times

hereafter, all and all manner of benefit and advantage of exception which may be taken to the manifold insufficien' of the said answer, for replication thereunto, says that he will ever, maintain, and prove his bill of complaint to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant, Marshall Jewell, is uncertain, untrue, and insufficient to be replied unto by this repliant, without this, that any other matter or thing whatever, in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

(S'g'd) ROBINSON & BROOKS,
Solicitor' for Complainant.

26 (Indorsed:) No. 1469. Replication. Circuit court for the United States for the eastern district of Michigan. Eli Allore, compl't, vs. Marshall Jewell, deft. Filed January 3d, 1871, in clerk's office. (S'g'd) A. Mandell, clerk. Robinson & Brooks, solrs. for complt.

27 Circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMPLT.,
vs.
MARSHALL JEWELL, DEFT.

WAYNE COUNTY, *ss:*

Geo. O. Robinson, being duly sworn, deposes and says that he is one of the solicitors for the complainant in the above-entitled cause; that he has thoroughly and carefully examined the issues involved and to be determined in said cause, and finds from said examination that said issues to be almost wholly issues of fact, in that the complainant by his bill of complaint seeks, as the heir of the grantor, to set aside a conveyance of valuable real estate, made to the defendant as grantee, on the ground of the insanity of the grantor, and the use of fraudulent and undue influence in obtaining said conveyance, which grounds the said defendant wholly disclaims or denies by his answer.

(Signed) GEO. O. ROBINSON.

Subscribed and sworn to before me this 9th day of February, A. D. 1871.

(Signed) DON M. DICKINSON,
Notary Public, Wayne Co., Mich.

28 (Indorsed:) Circuit court of the U. S. for the east. dist. of Mich. In chancery. Eli Allore vs. Marshall Jewell. Notice of motion. To Meddaugh & Driggs, solrs. for deft. Robinson & Brooks, solrs. for complt.

29 Circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMPT.,
vs.
MARSHALL JEWELL, DEFT.

SIR: Take notice that, on Tuesday, the 14th inst., at nine o'clock in the forenoon, or as soon thereafter as counsel can be heard upon the

record of the above-entitled cause and upon the affidavit of Geo. O. Robinson, one of the solicitors for the complainant in said cause, a motion will be made before the above-entitled court that an issue of fact be found under the direction of said court of the issues of fact involved in said cause, and that the same be tried and determined by a jury under the direction of and for the use of said court.

Detroit, Feb'y 9th, 1871.

Yours, &c.,

(Signed) ROBINSON & BROOKS,
Solrs. for Complt.

To MEDDAUGH & DRIGGS,
Solrs. for Deft.

30 (Indorsed:) Circuit court of the U. S. for the eastern district of Mich. In chancery. Eli Allore vs. Marshall Jewell. Notice of motion for an issue to be tried by jury. Filed in open court Feb'y 14, 1871. (S'g'd) A. Mandell, clerk. Robinson & Brooks, solicitors for complt.

31, 32 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Tuesday, the fourteenth day of February, in the year of our Lord one thousand eight hundred and seventy-one.

Present, Hon. John W. Longyear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In equity.

The complainant in this cause now comes and moves the court that an issue of fact be found, under the direction of the court, in this case, to be tried by a jury; which motion is argued by Mr. Robinson in support thereof, and by Mr. Meddaugh in opposition thereto, and submitted.

33 34 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Monday, the twentieth day of February, in the year of our Lord one thousand eight hundred and seventy-one.

Present, honorable John W. Longyear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In equity.

The motion heretofore made in this cause, that an issue of fact be found therein, under the direction of the court, to be tried by a jury, having been fully considered, is now by the court here overruled and denied.

35 *Note of issue.*

In the circuit court of the United States for the eastern district of Michigan. In chancery, October 26th, 1871.

ELI ALLORE, COMPLT.,
vs.
MARSHALL JEWELL, DEFT.

The above-entitled cause will be brought on for hearing at the next term of this court; notice having been served on the part of the com-

plainant on Meddaugh & Driggs, attorneys for the defendant, according to the statute and rules of this court, you will please place said cause on the issue docket of this court for said term.

(Signed) ROBINSON & BROOKS,
Solicitors for Complainant.

To the clerk of said court.

36 (Indorsed:) No. 1469. Circuit court of the U. S. for the eastern district of Mich. Eli Allore, compl't, vs. Marshall Jewell, deft. Note of issue. Filed in clerk's office Oct. 26th, 1871. (S'g'd) A. Mandell, cl'k.

37 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Monday, the ninth day of October, in the year one thousand eight hundred and seventy-one.

Present, honorable John W. Long'ear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In equity.

The court is engaged in taking the testimony of witnesses in open court in this cause this day.

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment at the district court-room, in the city of Detroit, on Tuesday, the tenth day of October, in the year one thousand eight hundred and seventy-one.

Present, honorable John W. Longyear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In chancery.

The court is engaged in taking the testimony of witnesses in open court in this case this day.

38 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Wednesday, the eleventh day of October, in the year one thousand eight hundred and seventy-one.

Present, honorable John W. Longyear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In chancery.

The testimony of witnesses in open court in this case is closed this day.

39 *Note of issue.*

STATE OF MICHIGAN.

In the circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMPT.,
vs.
MARSHALL JEWELL, DEFT.

DETROIT, *Feb'y 8th*, 1872.

The above-entitled cause will be brought on for trial at the next term of this court, notice having been served on the part of the complainant on Messrs. Meddaugh & Driggs, solicitors for the defendant, according to the statute and rules of this court.

You will please place said cause on the issue-docket of this court for said term.

(S'gn'd) ROBINSON & BROOKS,
Solicitors for Complainant.

To the register of said court.

40 (Indorsed:) No. 1469. Circuit court of the U. S. for the east' dist. of Mich. In chancery. Eli Allore, compl't, vs. Marshall Jewell. Note of issue. Filed in clerk's office Feb'y 8th, 1872. (S'gn'd) A. Mandell, clerk. Robinson & Brooks, sol'rs for complt.

41 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Tuesday, the twenty-third day of April, in the year one thousand eight hundred and seventy-two.

Present, honorable John W. Longyear, district judge.

ELI ALLOR', COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In chancery.

This cause having this day been brought on for hearing upon pleadings and proofs filed therein, the counsel for the respective parties are this day engaged in reading and presenting to the court the proofs in the case.

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment, at the district court-room, in the city of Detroit, on Wednesday, the twenty-fourth day of April, in the year one thousand eight hundred and seventy-two.

Present, honorable John W. Longyear, district judge.

ELI ALLOR', COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In chancery.

42 The hearing of this cause on pleadings and proofs having been resumed this day, is argued by Messrs. Brooks and Cheever in behalf of said complainants, and by Mr. Meddaugh in behalf of said defendant, and the cause submitted to the court for decision.

43 *Marshall Jewell to Mary G. Thebeau.*

Received for record November 25th, 1863, at 11 o'clock, a. m.
(S'gn'd) E. R. LACROIX,
By E. P. RANKIN,
Dep.

[2 dollars U. S. inter. revenue & 3 dollars U. State reve. M. Jewell, Nov. 24, 1863.]

This indenture made the twenty-fourth day of November, in the year of our Lord, one thousand eight hundred and sixty-three, between Marshall Jewel, of Hartford, in the State of Connecticut, of the first part, and Mary Jenevieve Thebeau, of Detroit, Michigan, of the second part, witnesseth as follows: That the said party of the first part, for and in consideration of a deed conveyence of the property hereinafter described, made this day by the party of the second part, to him, and also in consideration of one dollar to him in hand paid by the party of the second part, the receipt of which is hereby confirmed and acknowledged, has granted, bargained, sold, and by these presents does grant, bargain & sell unto the said party of the second part, her heirs and assigns forever, all the following pieces or parcels of land, to wit: A certain lot or piece of ground situate in the township of Springwells, county of Wayne, and Territory of Michigan, being fifty feet in front on the highway, opposite the residence of Widow Laferté, pursuing along the northeast
44 side of the alley between John R. Williams' ground and the Laferté ground, leading down and to the river Detroit, the said lot being fifty feet front and rear, on whatever depth there may be, more or less, from the public highway to the river Detroit; the said lot being part of the lot conveyed by Charles Cabacier & wife to John R. Williams, who sold to John Andrews, as per deed of 3d day of December, A. D 1832, recorded in the registry of deeds for Wayne County, in liber number ten, folios 555 & 556, December 4th, 1832; the above description being the same as that contained in deed of the party of the second part to party of the first part this day executed & delivered, it being intended hereby to cover the same property mentioned in said deed.

Also, all that certain lot or parcel of land lying and being situate in the county of Wayne aforesaid, formerly part of the farm of Charles R. Cabacier, deceased, bounded and described as follows, to wit: bounded in front on the Springwells road (so called) forty-eight feet, more or less, on the southwest by a lot formerly owned by John Andrews, one hundred & forty & $\frac{30}{100}$th feet to a twenty-feet alley, more or less; on the southeast or river side by said twenty-foot alley, and running along
45 the line of said alley forty-eight & $\frac{57}{100}$th feet, more or less; and on the northeast by the division line between this lot and lot number two, one hundred & thirty-three and one-half feet to the road aforesaid, the said lot being numbered one on the plat of building lots in front of the farm of Cabacier, near the city of Detroit, the property of John R. Williams, the said plat being recorded in the office of the register for the county of Wayne, reference being had thereto. All of which is the same property described in the deed this day made by the party of the second part to the party of the first part; and it is the intention to embrace herein all of the property mentioned and described in said deed, to which, for a more particular and definite description, reference is hereby made.

To have and to hold the said premises unto the said party of the second part, and to her heirs and assigns forever: Provided, always, and these presents are upon the terms and conditions following:

Whereas, the party of the second part has this day by warranty-deed granted and conveyed to the party of the first part all her right, title, and interest in and to the property above described in consideration of two hundred and fifty dollars, paid to her by said party of the first part; and in consideration that the said party of the first part shall
46 hereafter and during the natural life of the *of the* party *of the party* of the second part, continue to pay her each year the sum of five hundred dollars in semi-annual payments in advance, and shall pay the taxes on said premises for the year 1863, and all other taxes that may accrue thereon, during the life of said party of the second part, and shall pay all physicians' bills for attendance on said party of the second part during her life; and shall permit said party of the second part to occupy the house in which she now lives until the spring of 1864, or if she shall remove therefrom before then, shall pay the rent of such house as she may occupy until said spring of 1864.

Now, therefore, if the said party of the first part shall well and truly fulfil the obligations and conditions above enumerated, and which are more particularly stated and set forth in the bond bearing even date herewith, executed by the party of the first part to the party of the second part, then these presents and said bond shall cease and be null and void. But in case said party of the first part shall not fulfil his said obligations & undertakings above named in the manner pointed out and indicated in said bond, then in such case it shall be lawful for the said party of the second part, her heirs, executors, administrators or
47 assigns, and the said party of the first part does hereby authorize each and all of them so to do—to grant, bargain, sell, release, and convey the said premises with the appurtenances at public auction or vendue, and on such sale to make and execute to the purchaser, his heirs and assigns, a good and sufficient deed or deeds of conveyance in law according to the statute in such case made and provided, rendering the surplus money, if any there shall be, to the party of the first part.

In witness whereof the said party of the first part has hereunto set his hand & seal the day and year first above written.

(Signed) MARSHALL JEWELL. [SEAL.]

Signed, sealed & delivered in presence of—
(S'gn'd) E. W. MEDDAUGH.
" L. E. DOLSEN.

STATE OF MICHIGAN,
County of Wayne, ss:

On this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and sixty-three, before me, a notary public in and for said county, personally came the above-named Marshall Jewell, known to me to be the person who executed the foregoing in-
48 strument, and acknowledged the same to be his free act and deed.

(Signed) E. W. MEDDAUGH,
Notary Public, Wayne County, Mich.

Exemplification of record.

STATE OF MICHIGAN,
County of Wayne:

REGISTER OF DEEDS' OFFICE
For said County.

I, Alonzo Eaton, register of deeds for said county, do hereby certify that I have compared the foregoing copy of mortgage, bearing date the

24th day of November, in the year of our Lord one thousand eight hundred and sixty-three, and recorded in said register's office on the 25th day of November, in the year of our Lord one thousand eight hundred and sixty-three, in liber 43 of mortgages, page 379, with the original record thereof now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of such original record.

In testimony whereof I have hereunto set my hand and affixed
49 the seal of the register's office at the city of Detroit this nineteenth day of January, A. D. one thousand eight hundred and seventy-two.

[L. S.] (Signed) ALONZO EATON,
Register of Deeds.

[Stamp.]

50 (Indorsed:) U. S. circuit court. In chancery. Allore, compl't, vs. Jewell. Exhibit. Certified copy of mortgage. Filed in open court April 23d, 1872, with testimony. A. Mandell, clerk.

51 The circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLEN, COMPL'NT,
vs.
MARSHALL JEWELL, DEFT.

It is hereby stipulated that the testimony hereto annexed may be filed in this cause and may be read and treated on the hearing in the same manner & with like effect as if the same had been regularly taken in the form of depositions. Such testimony is all the testimony taken in this cause on either side, and may become a part of the record of this cause.

ROBINSON & BROOKS,
Solicitors for Complainants.
MEDDAUGH & DRIGGS,
Sol'ors for Deft.

53 United States court.

ELI ALLEN
vs.
MARSHALL JEWELL. } In equity.

AUGUSTUS BOULENO sworn for compl't.

Examined by Mr. H. M. Cheever:

Q. Where do you live?
A. Springwells.
Q. How old are you?
A. If I live to the 27th of this month I shall be 67.
Q. How long have you lived there in Springwells?
A. Nearly 50 years.
Q. Did you know Maria Genevive Phebe in her life-time?
A. Yes, sir.
Q. How long did you know her?
A. From 55 to 60 years.

Q. What time did she die?
A. '64.
Q. For several years prior to her death where did she live?
A. Down in Springwells, by Mr. Lafferty's.
Q. Do you know the property that has been deeded by her to the deft., Gov'r Jewell?
A. Yes, sir.
Q. Did she live on that property at the time she died?
54 A. I believe so.
Q. For how long a time before her death had she lived there?
A. I can't say exactly; several years.
Q. About how many to your knowledge?
A. I can't say.
Q. Give some idea?
A. I guess it was over 10 for sure.
Q. Did you know her axact age at the time of her death?
A. No, sir; not exactly.
Q. Was you acquainted with the state of her health for several years before her death and up to the time of her death?
A. Part of the time I was..
Q. What part of the time?
A. Before I left for the war in 1861. I was some time absent, and I came back in 1862. She was then very unwell; and when I came back in 1863 she was unwell.
Q. You were gone some time, from '60 to 63?
A. Yes, sir.
Q. How much of the time were you gone in the Army?
A. Sometimes a year and sometimes 8 or 10 months.
Q. How many times were you absent from home?
A. Three times.
Q. How long before her death in '64 did you return home to remain?
A. I came back in 1864.
Q. What part of the year?
A. January.
55 Q. What month did she die?
A. I can't say positive; I believe shortly after I came back.
Q. Did you see her after you came back before she died?
A. Yes, sir.
Q. How many times?
A. Once.
Q. During these intervals when you returned from the Army, how long a time would you remain home?
A. I was in the recruiting-service, and sometimes it would be two months and sometimes two and a half, and so on.
Q. How long were you here in 1863?
A. A little better than two months.
Q. Did you see her during that time?
A. Yes, sir; twice.
Q. Were you here in 1862?
A. Yes, sir.
Q. How long?
A. A little over two months.
Q. See her during that time?
A. Yes, sir; two or three times.
Q. Were you here in 1861?
A. Yes, sir.

Q. In the spring of 1861, before you went to the Army?

A. Yes, sir.

Q. Up to the spring of 1861, how frequently did you see her?

A. Sometimes once a week, sometimes twice, and sometimes more.

56 Q. How intimately were you acquainted with her?

A. From her childhood up.

Q. Was it at her own house or somebody else's house?

A. At our house and their house, because I was living on Mr. Suttrell's farm.

Q. What was her physical condition up to the time you went in the Army as to being healthy or in poor health?

A. She was in poor health; she had never been very healthy.

Q. What as to her mental condition? and state what you saw and heard which gave you any evidence as to what her mental condition; what you saw her do and heard her say, and give as near as you can the times those circumstances transpired.

A. Before I went to the Army she has offered her property to us. She was a woman that her ways were not clear; she would get mad all at once, and if she got mad at anybody she was hateful and ugly, and then, again, she would get over that and be as good as pie, as we say; and once we were talking—Dr. Trendall was there at the time, I believe—and she began to talk about the doctors; she called us over, me and the doctor——

Q. When was this?

A. In 1862.

Q. Well, go on.

57 Then we went over, (she called us over.) She wanted to see the old soldier. I went over and she began to talk about the Army a little; and then, after that, to talk about her business, and then she began to talk at the doctor and run him as low.

Q. What did she say?

A. She said the doctors and the priests were all linked together to rob the property away from her and her money; called them crass Yankees. Crass is filth.

Q. She applied that to the Yankee.

A. Filthy Yankees wanted to get her property, and she did not know what to do; and then she wanted to get advice from us. I told her we had no advice to give her, and then she turned her conversation to something else.

Q. What to?

A. She wanted to know what it meant by having a table shook during the night.

Q. Did she shake the table when she asked that question?

A. She showed us the motion, and her bedstead and bureaus, and then she said, "What do you think?" Says she, "I went to get some water and who did I meet? I met Burden," (a man who was dead some time before,) and, says she, "It was him." I could not help laughing, but I knew her before that she was so; so I tried——

Q. Tell what you said to her.

58 A. I said to her to try and change her——

Q. Give your language.

A. I says, "What do you lay your mind to such a thing as that, and get something else to amuse yourself with." And, says she, "You are no better than the rest; I suppose you want to do the same thing." "No, Kinet," says I, (we called her Kinet.) Then she went on and says, "The other night I saw a light in my room and a person dressing like a

woman, and I thought it was B., and when I got there the light was gone, and I went back to bed and the light came and it was B. dressed with Mrs. B.'s clothes;" and I made up my mind entirely.

Q. What else did she say or do at that time with you and the doctor?

A. She went at him.

Q. What did she say?

A. She began to blackguard him.

Q. Tell what she said.

A. She said the doctors and the priests were all robbers. She says, "You, doctor," and pushed him, "you are nothing but a robber and want to steal all my money and property," and then she got at the priests.

Q. What did the doctor say?

A. He said as I did, to alter her ways and change her mind to something else.

Q. What else did she say?

A. She said a good many things I can't recollect at the present time.

Q. Anything said by her as to any of the neighbors at that time?

A. She said, "They are cross."

59 Q. Call anybody by name?

A. She said there was one woman respected. She did not like the neighbors, and the only woman respected was Mrs. Lafferty.

Q. Who was Mrs. Lafferty?

A. It was Clem Lafferty's mother.

Q. Where did she live?

A. Close by where Mrs. Thebeau did.

Q. Was she intimate with Miss Thebeau?

A. Yes, sir.

Q. Is that all she said at that interview?

A. Yes, sir.

Q. Where did you next see her?

A. I seen her after that in 1863.

Q. Where?

A. At her house again.

Q. What time in 1863?

A. I can't say exactly—the spring of the year.

Q Who was with you at that time?

A. I was alone.

Q. What did she say at that time, if anything?

A. That time she wanted I should fetch my wife. She wanted I should come with my wife, and she wanted to come and live with us, and to pass her property to my wife. They were most brought up together.

Q. Anything else she said?

A. She said a good deal about these visions, and she said once she had left her book in her room up stairs, and when she came

60 back she found her book was not at the same place. Says I, "How did you find that out?" Says she, "I know it." I don't know what she meant by that.

Q. What else did she say?

A. She went and talked about her property again; that there was some folks around there wanted to get hold of her property.

Q. Did she say who it was?

A. Yes; she spoke about Dolson.

Q. What did she say about him?

A. She said this, that the *fits* Yankees, and Dolson was one of them,

wanted to get her property and money away from her, and wanted to know what course she should take. I told her I had no advice to give her, but to change her mind to something else.

Q. Was your wife present at that time?

A. No, sir.

Q. Is that all the conversation you had with her at that time?

A. Yes, sir; we had conversation about the Army.

Q. What was it?

A. She wanted to know how I got along there, and how the Army was getting along.

Q. Was anything said about her seeing visions at that time at this interview?

A. If I ain't mistaken, I think I asked her if she had seen anything else. She said she did not see it exactly, but felt it most often in the night shaking her bedstead.

Q. Whether anything was said at this interview about the doctor?

A. No more than what I stated; run down the doctor, and then turned right round and flattered him.

61 Q. What did she say the doctor was trying to do?

A. She did not say exactly him, but all the doctors and all the priests.

Q. Let me call your attention to what she said with regard to Dolson. Did she give any more particulars as to what Dolson wanted than what you stated generally?

A. No, I believe not; I don't recollect.

Q. Did you have any other conversation with her in that spring, along about that time?

A. Not about her property. I had another conversation with her a few weeks before she died. A few weeks before she died I met her again.

Q. Where was it you met her then?

A. At her house.

Q. Who was present?

A. I don't recollect exactly; but I know somebody else was with me.

Q. Where was it?

A. At her house.

Q. Was she in bed or up?

A. She was up when we came in, but after a little while I coaxed her to go to bed and rest herself?

Q. Why?

A. She was weak.

Q. What do you know as to whether she had been sick before that?

A. She told me she had.

Q. What did she say at this time, a few weeks before she died?

62 A. She said that she wanted—says she, "I wish you and your wife would come here; I want to make my home with you and die with you." Says she, "I can't live a great while now." I told her, "Mother," (I called her mother,) "if you think you are going to die, make your peace with your God, and fix your business, and have everything right." And she waited a while, and then turned round on me and said I was no better than the rest.

Q. What did she say to you?

A. She said to me this: Says she, "You are no better than that Dolson. I suppose you want to get my property, too."

Q. What did you say?

A. I told her I didn't want her property, but if you want to make your home with us you can come and stop with us as long as you like.

Q. What did she say?
A. She said she would.
Q. Did you see her again after this?
A. No, sir; that was the last time I saw her.
Q. You said she had been in a weak bodily condition for some time. Now, from what you saw of her mental condition during these interviews and during this time up to this last interview, and including that, what should you say as to her mental condition from what you saw and from her conversation and actions?
A. The fact is, I will tell you, in short words, that I never knew her to be of sound judgment.
63 Q. What do you mean by sound judgment?
A. That her judgment was not steady on anything.
Q. What do you mean—her mind?
A. I call it kind of lunatic; out of her head some, and then again that they were all right.
Q. Do you understand what is alleged here in this bill as to this deed given by her of all this property for $500 a year during her life-time?
A. Yes, sir.
Q. I want to ask you whether, judging from all you saw and heard of her condition, mentally and physically, and especially mentally—whether in your opinion she was capable at that time—whether she was mentally competent to understand a document of that kind, a deed or paper of that kind—your opinion from what you saw and heard?
A. If you want my opinion, my opinion is this, that——
Q. Was she competent or not?
A. That I would never make any bargain with her in any shape or manner, because I don't think she had her right mind.
Q. Do you think she was in such condition that she could comprehend such a paper, such a deed, because she offered it herself?
A. Mrs. Loranger didn't want to take her property and support her for the balance of her days. She said, "I want Victoria" (that is my wife) "to stay with her; I want to stay with her until I die." Well,
64 says I, if there is any such thing as that, mother, will you go before a court of probate, and I will have a guardian appointed for you. She said, "Anything," and ten minutes after it she would turn round and say I wanted to cheat her out of it.
Q. Are you acquainted with this property down there?
A. Yes, sir.
Q. What was that property worth, in your judgment, in 1863?
A. I can't say.
Q. Give it as near as you can, if you can; if you have no judgment about it, say so.
A. I would say not.
Q. From the first to the last, what was the fact as to whether, in your opinion, she was growing better during these years, or whether she was growing worse, mentally and physically?
A. A great deal worse, because she was getting ugly.
Q. As to her mind's being strong or wandering, being subject to fits of changing, was she getting better or worse?
A. She was worse, if anything. She was a woman that her mind was made up on money, and money was her object and her god.

Cross-examination by Mr. Meddaugh:

Q. When you returned from the Army, the first time was in 1862, was it?
A. Yes, sir.

Q. What conversation did you have with her about the Army?

A. Passed time away, as we generally done.

65 Q. You started out by saying she enquired about how you got along; what did she inquire about?

A. She wanted to know how I got along soldiering in the Army, and how was my health, and if I had been wounded, and we had lost some of our friends.

Q. Did she enquire about the friends lost?

A. She wanted to know——

Q. Of any of them who went into the Army did she inquire about?

A. Yes, sir.

Q. Who did she enquire about?

A. There was several young men, and young Cavacy, Mr. Willard's brother-in-law, in the Rouge.

Q. What did she inquire about them?

A. Because we were here and brought up almost together.

Q. What did she ask you about the Army?

A. Asked me how they were; how they were getting along.

Q. Asked you if you had been wounded?

A. Yes, sir; or any of them killed. I told her one of them was shot and killed.

Q. When was this she inquired about those who had been in the Army; at which one of the conversations in 1862?

A. She had enquired every time she saw me after I came back from the recruiting service.

Q. She was not much in love with the priests; she was rather severe on them always?

A. The fact is——

66 Q. For a great many years before her death didn't she abuse the priests?

A. Yes, sir; and the doctors. The fact was she would abuse any one a spell, and then flatter them.

Q. Especially with respect to the priests, was she not abusive of them particularly?

A. I don't know if she was, more than she was on the doctors; the doctors and the priests. She was pretty hard on any one when she would get ugly.

Q. I understood you to say, in answer to one question, she was out of her head sometimes, and then she would be right again. Did you mean to say she had times she was worse than others?

A. Yes; I do believe she was.

Q. At times would she talk rational and sensible?

A. Yes; and 10 or 15 minutes she might have been flattering you; you was a good man and trying to do good, and then she would say you wanted to cut her throat.

Q. The latter part of her life, I think you stated, she was particularly desirous of making money—penurious?

A. Ever since I knew her; and the whole family.

Q. It is a family characteristic?

A. Money, money, money was her lord.

Q. You say she had lived at this house about 10 years?

A. I can't say exactly.

Q. That is your judgment?

A. I guess she was there longer; I can't tell exactly; she had been there some time.

Q. In any of these conversations which you had with her when

67 she proposed to give her property to some one if they would take care of her, have you given all the conversation you had about it —all she said on those occasions?

A. I might not recollect everything.

Q. She proposed to give her property to your wife on what conditions? What was said about the terms?

A. All the terms, she said she wanted her to take it, for her to come and live with us the balance of her days.

Q. How was she living at that time—by herself?

A. By herself; yes, sir.

Q. She was a good deal in need, was she not, most of the time; had nothing to support her; no means that were known?

A. Yes; she had means.

Q. Where were they?

A. I don't know exactly where, but I never knew a Thebaut without they had lots of money.

Q. Where do you suppose she kept them?

A. There were means and she would salt them down and you could not get her to spend it. To get a Thebaut without money you cannot get into my head.

Q. Where had she her money?

A. Perhaps with her particular friends or salted down; I don't know exactly.

Q. You think she had it hid away somewhere?

A. Yes, sir; that is what I think.

Q. The whole family you say were very penurious?

A. Yes, sir.

68 Q. And she was very careful about money affairs?

A. Yes, sir.

Q. And the talk about getting her property away from her was almost always when you met her a part of the conversation?

A. Yes, sir.

Q. You say she could not understand this deed; could she read English or French?

A. She could read French.

Q. Could she write it?

A. That I don't know.

Q. I suppose she had one of those moments when you say she was all right; take her some time when she was not out of her head, don't you suppose she could understand if a deed was read to her in which she states, "I convey my property to somebody else;" whether you suppose when her mind was all right, not out of her head; at a time she talked rational, don't you suppose if that deed had been read to her she could understand it?

A. Probably she would.

Q. Wouldn't she know whether she was conveying it away or not?

A. Yes, sir; probably she would know, but one word in it that did not satisfy her she would throw it all out. One thing that comes in my mind, if you will allow me. Says she, "Like that Alexander Lafferty—he made out papers and came here, the rascal, and wanted to cheat me. The paper was not right." She said to me there was

69 some paper made out and Alexander went there with the paper, and she said he was a rascal; he wanted to cheat her out of her property, and she would not sign it.

Q. Some word in it she did not like?

A. Yes, sir; one word she did not like.

Q. What was that paper about, do you remember?
A. I don't know anything more than she said it was to deed her property.
Q. An agreement to deed her property?
A. Yes, sir; and she was going to live with him. She said he was a rascal and wanted to cheat her.
Q. She would not sign the paper?
A. She would not sign the paper; I recollect that.
Q. You have known her all her life?
A. She was a little older than I was.
Q. You was with her as a child, grew up, I suppose, together in the neighborhood, where you saw her from time to time.
A. As neighbors sometimes I might see her every day, and especially when St. Antoine church was made.
Q. All her life she had this desire for money and was very close?
A. Yes, sir; from her young days.
Q. That was always a characteristic of the woman from the time you first knew her?
A. Yes, sir; she was in love of money.
Q. How many years before her death had she been in ill health?
A. I can't say exactly, but I believe for three or four years; 5
70 or 6 years before she complained, she was going down hill; her legs gave way, and she was not as smart as usual.
Q. What was the nature of her complaint; do you know?
A. No, sir, I don't. She had a queer way. I seen her in the hottest day in summer wear woolen clothes, and I seen her again in the winter, in the coldest day, you could see her body through the chemise and calico frock over it, and there is no person now here could work his mind to say exactly what she was.
Q. Have you talked with anybody in this case?
A. I talked with Mr. Robinson.
Q. Talked with Dr. Truedell any?
A. We talked with Dr. Truedell when Mr. Robinson took our evidence.
Q. Dr. Truedell came with him to see you when he took your evidence?
A. No, sir.
Q. How happened you and he to talk together?
A. I met him at the office.
Q. Where was he?
A. At the office.
Q. Of Mr. Robinson?
A. Yes, sir; and I talked with him there.
Q. Did you talk with him before that?
A. Not to my knowledge.
Q. When was it that you gave your evidence the first time?
A. I don't recollect; the spring some time.
Q. Talk with Mr. Naggs any?
71 A. No, sir; I saw Mr. Naggs when he had a suit for camphor in the circuit court.
Q. Talk with him any about this case?
A. No, sir.
Q. Have any talk with him about this woman?
A. No, sir.
Q. Never talk with him about her health and mind?
A. Yes, sir; I believe I did this morning; shook hands with him and told him she had been unhealthy several years before she died.

Q. Anything said about her mind, you and Naggs together?
A. No, sir.
Q. Did you ever talk with him about it until this morning?
A. No, sir; only this time I talked with Truedell.
Q. Whether Naggs was there too?
A. Yes, sir.

72

73 N. W. BROOKS sworn for complainant:

Q. (By Mr. Cheever.) How long have you resided in Detroit?
A. Some 34 years, but not all the time in Detroit; about twelve years on the river St. Clair.
Q. Engaged in what business?
A. Lumber.
Q. Are you acquainted with this property, known as the Thebeau property, or as the Jewell?
A. I am.
Q. Were you acquainted with Maria Thebau?
A. I was partially acquainted with *him*.
Q. How long did you know her?
A. I have seen her on the street perhaps, more or less, for 10 y'rs prior to her death.
Q. Do you know where she lived at the time of her death?
A. Yes, sir; she lived in a little hovel on the property she conveyed. The property was in a very dilapidated condition.
Q. What was the property worth at that time, on the 24th of Nov., 1863?
A. The appearance of the property was so much against it that I doubt very much whether any one ever put a correct estimate on its value, but it would be extremely difficult to say at this time what I thought it was worth at that time. It would be very difficult for me to arrive at a very satisfactory conclusion.
Q. Give it as near as you can.
A. I should say from five to six thousand dollars. It was only within the past two years that I really learned the correct boundary. I
74 did not get it from her; she spoke in general terms. This must have been in '63 or '64.
Q. What was her physical condition for some time before her death?
A. She was French and Brooks was English. She spoke broken English when she had anything to say to me, and she was very tiresome, very monotonous, repeating the same thing a great many times. I frequently furnished her with wood, and sent a man to cut it for her. I thought it very unnatural that her relatives did not look after her, for she lived alone.
Q. Rather excluded from others?
A. Apparently entirely so.
Q. Were you ever in her house?
A. I don't recollect, but I have an impression that I was once, but I am not positive.
Q. What did you see as to her physical condition for two or three years before her death?
A. I had an impression she was older than she appeared to be when she died. She was a very eccentric woman, perhaps bordering dotage.
Q. How long had that appearance indicated itself?

A. I would say she always had the same appearance to me after I became acquainted with her, for as much as 4 ye'rs before her death.

Q. I call your attention to her mental condition. I will ask you first to give any instance you may have noticed which would tend to show what her mental condition was; what would she say to you?

A. I cannot do that for this reason, that everything she said to me was in broken English, and it was very difficult for me to understand it when she talked half foreign and half English, but I

75 you could say about it that she was quite old, and very eccentric. For instance, she was in the habit of carrying an old umbrella, rain or shine, but I must confess I have seen very sane men do the same thing.

Q. How did she carry this umbrella; spread over her head?

A. Not always; sometimes spread and sometimes not. I don't recollect that I have ever seen it spread over her head when it was unnatural to be, but she carried an umbrella and a very neat pair of gloves. She was always gloved.

Q. How as to other clothing?

A. Very neat.

Q. Ever notice any difference in the clothing between summer and winter; whether it was appropriate to the season?

A. I don't know that I did.

Q. Did you have any conversation with her relative to the property?

A. Yes, sir.

Q. How long before Nov. '63?

A. It must have been early in the fall of 1863 she offered the property to me.

Q. What did she say?

I' was very broken, and she was telling me how she would sell it to me. This was the impression on my mind, that if I had that property with her peculiar idyosyncracies of character, that I should be put to a great deal of trouble, more than the property would be worth; I declined to take it, but I recommended her to go to some French friends and deal with them.

Q. Judging from what you saw of her at that time, in that November after that time, as to her mental condition, what is your opinion

76 as to whether she was mentally competent to understand a conveyance of this kind relative to that property; understand what she was doing when she offered it?

A. I cannot answer that question; she was more French than English, and consequently I could not tell all she did say.

Q. You can give the impression left on your mind.

A. My idea was I should not like to trade with her. Perhaps I might get a French interpreter and get her to do it, but I thought it would be more trouble than the property would be worth.

Q. On this ground she did not understand?

A. On the ground of our difficulty to understand each other.

Q. How long before her death did you see her again?

A. I don't think I saw her for four months before her death. I recollect observing to Dolson—perhaps that is away from this subject.

Q. Was it in reference to her mental condition?

A. No, sir; in reference to her capacity to understand.

Q. You need not say what you said to Dolson, but what was your opinion when you stated that to Dolson?

A. I learned he was a purchaser, and I says, Mr. Dolson, it is much better to you because you understand the French language and I could

not. Says I, she offered the property to me, but it was in such broken terms, and she is so peculiar, that I expect it is all right. You and she understand each other.

Q. This was after she had sold?

Yes, sir.

Did you notice any change or difference in these different times you saw her during 4 y'rs, comparing the first with the last;
77 whether she improved any in mental capacity, or was growing worse?

To use a cant expression, she seemed to me to be the same old sixpence during the 4 y'rs I saw her.

Q. Did it improve any?

Didn't improve any.

Cross-ex. by Mr. Meddaugh:

Q. Her conversations with you were in English?

A. As near as she could get at it.

Q. You did not talk French with her?

A. No, sir.

Q. What, in these conversations, was the subject of the talk on her part generally?

A. Most always she would come to me for a little wood, and sometimes I would send a man to cut it up, knowing she was in the habit of cutting her own wood, and I would see that the men went and did it for her.

Q. You say she repeated a good deal in talking with you, in consequence of her inability to speak the English language?

A. Perhaps the want might have been on my side trying to get an explanation, making it necessary, and sometimes when it was unnecessary, she would be repeating something, trying to make a strong impression my mind; she said I was a favorite of hers and she wanted to sell the property to me.

Q. You said she made the impression on your mind of being older than she in fact was.

A. Yes, sir; from her appearance.

Q. And you think she was in her dotage, or bordering on dotage?

A. Yes, sir.

78 Q. Did you get the impression she was an insane woman?

A. I did not.

Q. Idiotic at all?

A. No, sir; no impression of that kind.

Q. Was she, in your judgment, anything more than one of the peculiar Frenchwomen of this locality; did she impress you any differently from the old French people here in ill-health?

A. I could define it by saying, take any person in ill-health at the age I suppose she was, (74 y'rs of age, I suppose,) you never see that brilliancy of mind that you do at the meridian, and I thought she was on the failing side of her mental capacity.

Q. You are acquainted pretty generally, I suppose, with the French people—a good many of them? *Q.* You have a good deal of acquaintance with the French?

A. Yes, sir.

Q. That class of Frenchmen to which she belonged. Was the conduct, her mental peculiarities, very different from her class of people?

A. I do not know where I could find a case to illustrate it in my mind; but I thought she was a peculiar woman, an eccentric woman;

but I do not know that I was under the impression she was insane, or that she was imbecile.

Q. Keen enough to know when she wanted wood?

A. Yes, sir.

Q. And knew where to go and get it?

A. Yes, sir.

Q. She never bought it?

A. No, sir; sometimes she told me she would pay for it, and believing she had no resources, I would tell her I did not want any pay for it.

79 Re-direct:

Q. As to that offer—she offered you that property for what?

A. My impression is it was $125 down, and how much it was per year it has slipped my mind, but it was a less amount than Mr. Dobson gave.

Q. A year during her life?

A. Yes, sir; during her life. She observed, but not to me, that when she did make a sale of it she would live a great deal longer than they thought she would.

Q. With that offer, knowing the value of the property as you did, if you had considered her a perfectly sound, sane woman, would you have had any hesitancy in accepting it?

A. I cannot answer very promptly. There are some people sane I would not take property of at a quarter of its value, provided there were conditions; and I was under the impression, knowing the woman as I did, I might see her from 8 to 10 times a day during the balance of her life, consequently I did not like to have anything to do with her.

Q. Whether you considered her in such a condition—that she was really in such a condition at that time that she ought to dispose of that amount of property in that way, what was the impression in your mind at that time?

A. That would be according to the length of life she might live; she was a great deal younger than I supposed she was, and she had lived some fifteen years there; I recollect by her property.

Q. Whether you considered her competent, all things considered, considering her age?

A. I have known individuals whom I thought would not live a year have lived 50 years; consequently the impression I would gather in regard to that, I don't know that it would be correct.

80

81 Mrs. EMILY LAGNON sworn for complainant.

Examined by Mr. Cheever:

Q. Where do you live?

A. On 20th.

Q. How long have you lived in Detroit?

A. A good many years; over 30 years.

Q. Were you acquainted with Miss Maria Genevieve Thebault in her life-time?

A. Yes, sir; been acquainted with her some time.

Q. How many years before she died?

A. 30 or 20 years.

Q. How near have you lived to her during any of that time?

A. We have been living just a few houses from her, and I have been living in the house with her.

Q. How long did you live in the house with her?

A. 20 years ago; I lived through a winter with her; I moved there in the fall and went off in the spring.

Q. After that, how near to her have you lived?

A. I have been very near to her; I lived on 12th st. and she lived on her place.

Q. How often did you see her?

A. I did not see her very often; once in a while I may see her.

Q. About how often?

A. Five or six times, perhaps; I never paid much attention to it.

Q. Do you know when she died?

A. Yes, sir. I went to see her after she was dead. I did not see her when she was sick.

Q. Before her death, how long had it been since you had seen her?

82 A. Five or six weeks.

Q. Where had you seen her then?

A. At Mrs. Sutton's?

Q. And from that time back how often had you seen her?

A. Every once in a while; may be every three or four months, and perhaps further apart.

Q. During the early part of her life, 20 years ago, when you lived in the same house with her, what was her condition as to being healthy, physically?

A. Her body seemed to be healthy at that time.

Q. How as to her mind at that time?

A. She was kind of light-headed all the time.

Q. What do you mean?

A. When you talk' to her she had no kind of right sense; she would talk one day one thing and the next another.

Q. Give an illustration of what she said; what you mean about her talking one day one thing and another the next.

A. Talking to the old lady sometimes.

Q. What old lady?

A. Miss Thebaut. I asked her many time' why she did not better herself. I thought she lived dreadful poor; and I said, "Why don't you better yourself? You have got enough property to you as long as you live; why don't you help yourself? You are ruining yourself the way you are living." Says she, "I think I live well enough." And so, of course, it was none of my business.

Q. You say she talked one thing one day and another the next; give us an illustration of that.

A. I was asking her such a question as that. Says I, "Miss
83 Thebault, sell out your property and better yourself." "No," says she; "I would not, because they want to fool me;" says she, "They can't do it; I know enough; they won't give me what it is worth; and," says she, "I won't; I will keep hold; don't you think I do right?" I says, "Yes; but maybe you find a good price, and," says I, "you have no one to leave behind." Says she, "I have a nephew; I think about him."

Q. Who was it?

A. Mr. Allor's son, Peters Alor's son.

Q. What was his first name?

A. I can't tell you.

Q. Do you know him?

A. No, sir.

Q. What did she say about him?

A. She said he was the only nephew she had; she thought she could better him after her death, if she had more than she wanted.

Q. Come down from that time. At that time you lived with her over the winter?

A. Yes, sir.

Q. Before her death—you saw her a few weeks before at Mrs. Sutton's?

A. Yes, sir.

Q. How did she appear then physically?

A. She appeared to be sick.

Q. First about her body; how sick? what do you mean?

A. She seemed to be sick; kind of weak, and she said she didn't feel well; her health was growing bad.

Q. How old was she?

A. I don't know.

Q. What was her appearance like; an old, feeble woman?

84 A. No.

Q. What did she say? How did she appear mentally?

A. When I was talking to her, sometimes she would play with the children, and sometimes she *would play with the children, and sometimes she* would sing.

Q. What did you say to her when she sang? What question would you ask her?

I used to ask her how she was getting along; a few questions.

Q. What did she sing?

A. Kind of motioned to herself.

Q. Tell us how?

A. Hem, hum, hum.

Q. What would she do besides singing?

A. Sometimes she would turn herself round and she would make a few steps and walk out on the stoop and come back.

Q. Did you ever see her dance?

A. I have.

Q. How was it the last time you saw her; four or five weeks before she was taken sick?

A. She did not feel lively at all, as if she was going down very fast.

Q. When did you see her dance?

A. When she was living with me.

Q. What would make her dance?

A. I suppose the sense she did not have.

Q. Was anything said to her requesting her to dance?

A. Yes, sir; talking to her sometimes, and she would take hold of the little girls and commence dancing.

Q. Did you ask her to dance?

A. No, never.

85 Q. Was anything said or done by any one there inducing her to dance?

A. No; she would come down and take hold of my little girl, or if there was a cat by the stove she would take hold of it and dance with it.

Q. What would she say?

A. Sing to herself; say nothing.

Q. What did you say to her?

Said nothing, because she was in her own house and she might do as she was minded.

Do you know how she was as to dress during the latter part of her life; whether she dressed appropriately for the season?

A. She never did, as long as I knew her; I never saw her dressed appropriately.

Q. How would she dress?

A. Dressed very poor—common; sometimes a little bit better in the winter-time, but she dressed very poorly.

Q. Did she have some warm clothes?

A. Not very warm or very thick.

Q. What did she wear in the summer?

A. The same thing.

Q. Did she have an umbrella?

All the time; sometimes she carried it before her, sometimes behind, but mostly all the time over her head; if it was raining, or the sun shining, or cold, she always had the umbrella up.

Q. Did you ask her, or did she ever say, why she carried it?

A. No, sir; it was nothing to me.

86 Q. When she would be engaged in dancing, did you notice anything as to her eyes, how they looked?

A. Looked awful wild; she never had a very good look.

Q. Were you acquainted with her family?

A. I have been acquainted with one of her sisters.

Q. How many sisters did she have?

A. Two sisters she had and a brother.

Q. You knew all the family?

A. I knew some of them.

Q. Do you know whether any of them have been insane?

A. No; I think one of them has very good sense—one that died; I think she was a very sensible woman.

Q. What was Miss Thebault's physical condition as to being clean just before she died, or having filth and vermin upon her person; do you know of that?

A. No; I don't understand English very well; some words I could not make out.

Q. Did you ever have any conversation with her—try to talk with her on any subject?

A. No, sir; I have not.

Q. Did she ever talk with you about disposing of her property?

A. Yes, sir.

Q. There is a deed in this case, claimed to have been given by her to Governor Jewell on this property; you know where the property is?

A. Yes, sir.

Q. Given November 27th, 1863, two months before she died—two months and ten days; a deed given for $500 a year to be paid to her, that she might live in the house until spring, &c.; what is your opinion, from what you know of her mental condition and her mind, whether she could understand such a paper?

87 A. I don't think she had sense enough to understand it.

Cross-examined by Mr. Meddaugh:

Q. Could she read and write English?

A. She could read and write English and French and Latin; she has a good education.

Q. Did you ever hear her read?

A. Yes, sir.

Q. What?

A. I have often heard her read in French.

Q. Ever hear her read in English?

A. No, sir; she used to come and read story-books in French to me every night about; and she said she had all the education she wanted in French and English and Latin; I know she could talk Latin, for I have heard her talk; I did not understand her, of course, but I heard her talk Latin with some persons that I knew did talk Latin with her.

JAMES W. SUTTON sworn for complainant.

Examined by Mr. Cheever:

Q. How long have you lived in Detroit?
A. I came here in 1831 and lived here ever since.
Q. What is your business?
A. Woodenware manufacturer.
Q. Were you acquainted with Miss Thebault in her lifetime?
A. Yes, sir; not personally acquainted with her; saw her in the street and at my house.

88 Q. How long a time before her death had you known her?

A. She used to come to the house almost up to her sickness, and I don't know how long that was; might have been two or three or four months; I don't recollect.

Q. For how many years?
A. Ever since she lived down there.
Q. 20 years?
A. Yes, sir; we moved here in 1848, and moved where we are now in the fall of 1849.
Q. Give some illustrations as to what you know of her mental condition during this time—what she would do and say.
A. I didn't often have much conversation with her; I would sometimes come in and find her there, and if I wanted her to go I would say, "Give me your property and I will take care of you," and she would get out and go right home; she was very eccentric.
Q. What would she do?
A. I don't know as I ever saw her do much of anything.
Q. Dance?
A. Yes; I found her dancing once in the kitchen, and I understood she was a great fiddler; I think it was once I saw her dancing in the kitchen.
Q. How long before her death?
A. I can't say; might have been a year.
Q. What have you heard her say in conversation?
A. Very little.
Q. Tell us what the little was.
A. I can't say; I can't recollect.

Q. Was her talk coherent?

89 A. No; I used to think her crazy almost in the commencement.

Q. Do you any of the peculiarities about her?

A. No.
Q. Except the general ones you have given?
A. No; except in dress, and this old umbrella.
Q. How about it?
A. It was generally under her arm, rain or shine.
Q. Do you know whether she pretended to be anybody?
A. She pretended to teach school.
Q. How long was this she made these pretensions?

A. I don't recollect; she pretended to be a school-teacher; and that is about all I ever knew her to profess doing.

Q. From all that you saw and heard of her during this time, up to the time she was taken sick, what is your opinion as to her being a person of sound mind?

A. I don't think she was sound.

Q. You have heard me describe the substance of this conveyance to Governor Jewell?

A. Yes, sir.

Q. What is your opinion, from all you know and all you saw of her, as to her being on the 23d of November, 1863, as to her mentally understanding a conveyance of that kind?

I don't think she would.

Cross-examined by Mr. Meddaugh:

Q. You had very little conversation with her?

Very little; only what I heard in the house; and generally wanted to get rid of her as soon as possible.

Q. Did you ever talk to her about her property?

90 A. Once in a while I would tell her to give me the property to take care of her; and then she would run. That is the way I had to get rid of her.

Q. Did you ever try to get her property?

A. No, sir.

Q. Ever try to buy it for your son?

A. No, sir.

Q. Did he try to get it, to your knowledge?

A. Not that I know of.

Q. Did you ever hear of such a thing?

A. I heard that she offered him the property if he would let her go and live with them and take care of her. He said no; one of the family was enough in the house; something like that. I never had any conversation with her—no more than what was at the house; and I would generally get her out of the house as quick as I could.

Q. You never had any talk with her about the property, except to ask her to give you the property to take care of her, and she would leave?

A. Yes; in a joking way.

Q. That is the only way you did talk with her about it?

A. Yes, sir; I never spoke a word with her outside the house.

Q. Know whether she was a good scholar?

A. I don't.

Q. You always deemed her insane?

A. Always; always eccentric in dress and everything else. As far as dress went, I don't know but what she wore the same calico dress the last forty years, and the same umbrella.

Q. Did she speak English or French when you heard her talk?

A. She spoke broken English.

91 Q. Could you understand her without difficulty?

A. Yes; I had so many Frenchmen around; a French word I could catch; I can't speak French myself.

Q. She spoke French and English mixed.

A. Yes, sir.

Q. No difficulty in understanding her?

A. No.

Q. All you know of her is what you saw of her about your place, and you generally got rid of her as soon as you could?
A. Yes, sir; when I came in I generally got rid of her, if I could.

Redirect:

Q. What was the value of that property in 1863—in November, 1863?
A. I should say it was worth plump $16,000. I know R. when he had the lease he offered her $6,000 once; R. was fishing for some other property there.

Recross:

Q. How much was there of it?
A. I guess there is a hundred feet front; I don't know exactly; one lot runs to the channel, and the other one part way to the channel.
Q. How much of it runs to the channel?
A. I guess about half.
Q. What is it worth a foot on the channel?
A. Worth $300.
Q. Without buildings on it?
A. Yes, sir.
Q. $300 a foot?
A. Easy.
92 Q. What is it worth without running to the channel?
A. It would not be worth over one-third.
Q. You think there is 50 feet running to the channel?
A. I think so; there are two lots, one runs to the channel, and one runs half-way.
Q. Do you know the Macdonald property this side of her?
A. Yes, sir.
Q. Do you know how much there is of it?
A. No, I don't.
Q. Do you know it was sold recently?
A. Yes, sir.
Q. Do you know how much it brought?
A. I heard, and yet I can't recollect exactly what it was.
Q. Were you there at the sale?
A. No, sir.
Q. Did you know it was to be sold?
A. I knew it was to be sold.
Q. Is that land worth more than $180 a foot?
A. The Jones property?
Q. Yes.
A. Yes, sir; I think it is; and that is not filled in there, either.
Q. Take it as it is, whether filled in or not; how much is it worth now a foot?
A. I should say over $200.

GILBERT LOGNON sworn for complainant.

Q. How long have you lived in Detroit?
A. About 55 years.
Q. What part of the city?
A. I live down on the Jones farm; was born there.
93 Q. What is your business?
A. Carpenter.
Did you know Miss Thebault?
Yes, sir.

Q. How long did you know her before her death?
A. About 45 years.
Q. Were you intimately acquainted with her?
A. Yes, sir.
Q. How often would you see her on an average?
A. When she lived in the city I would see her every day.
Q. When was that?
A. A good many years ago.
Q. How many?
A. About 40 years.
Q. During the latter years of her life, how often did you see her?
A. Every week most.
Q. What was her physical condition for the last few years of her life—her body—sick or well?
A. She was in good health part of the time, I think, and part of the time she was sick.
Q. What was her mental condition—her mind—during this time?
A. She was light-headed a good deal of it.
Q. What do you mean by light-headed?
A. It ran in the family; they were all silly.
Q. What do you mean by that?
A. They did not know much.
Q. How many were there in the family?
A. I believe there were three or four?
Q. You knew them all?
A. Yes, sir.
94 Q. Do you know anything about her mother being insane?
A. Yes, sir.
(Obj. to.)
Q. State what you know about her mother?
A. I knew the old woman was always crazy-like.
What do you mean?
Didn't know anything.
How did she act; what did she do?
(Obj. to.)
Q. What do you know about the rest of the family?
A. They were all about the same thing.
Q. What do you say about them?
A. They were light-headed, crazy.
Q. About Miss Thebault herself—come down to this woman. What was her mental condition before she died a few years?
A. For three or four months I did not see her, but the woman was silly, very silly in her ways.
Q. Give us some instances of what you have seen her do & heard her say.
A. Sometimes she would want to sell and then she would not; after a person come up to buy it she would not sell; she would back out.
Q. What have you heard her say? Give us some of her expressions to show if she knew what she was about.
A. I don't recollect what she would say.
Q. Can't you recollect any one thing?
A. No, sir.
Q. Never hear her speak about any particular individuals or persons?
A. No, sir.
95 Q. What have you seen her do that was silly?

A. I was one day paying her taxes. I was going to pay her tax, and she was to give me silver for an order I had. She went up-stairs (I guess 15 times) for the money, that amounted to $15, and I thought then she was——

Q. Where was you?

A. I was below and she went up-stairs.

Q. What did she say on coming down?

A. She would count it over, and keep counting, and then go up and get some more.

Q. What would she do then after getting more?

A. She would count it out and she would not have enough, and I started to go off and told her I would not be bothered with her.

Q. When was this?

A. 8 or 10 years ago.

Q. What else have you known of her doing that gave evidence of this condition of her mind?

A. I don't know of anything else.

Q. Whether you have ever seen her dancing?

A. I have never seen her dancing; I have seen her playing the fiddle.

Q. In what way; did she have the fiddle?

A. Yes, sir.

Q. When was this?

A. A good many years ago, when I lived with her.

Q. You lived in the same house with her?

A. Yes, sir.

Q. Know anything of her singing?

A. No, sir.

96 Q. Can you recollect any particular thing you heard her say, aside from what you have stated?

A. No, sir.

Q. What was her appearance during this time when she was running up and down stairs in this way, and playing the fiddle? What was the appearance of her eye as to knowing what she was about?

A. I never looked much at her eyes.

Q. Knowing what you did of her during this time, what was your opinion as to her being sane or insane?

A. I thought she was insane.

Q. When was that?

A. About 3 or 4 years ago; five years ago.

Q. You say 3 or 4 years ago; what do you mean by that?

A. Before she died.

Cross-examination:

Q. You say you have seen her play the fiddle?

A. Yes, sir.

Q. When did you see her play the fiddle?

A. 10 or 12 years ago.

Q. Play well?

A. Yes, sir; some old French tunes she would play.

Q. Had quite a taste for music?

A. I can't tell you; she had a very poor fiddle.

Q. Did you ever try to buy her property?

A. No, sir.

Q. Ever have any talk with her about buying her property of her at all?

A. No, sir.

Ever hear her talk about selling her property?

97 A. I believe she wanted to sell once.

Q. Did you ever hear her talk about it?

A. Yes, sir; she wanted to sell once, and then she backed out. She told me she had backed out; she would not sell it.

Q. Did she tell you who she wanted to sell it to?

A. No, sir.

Q. Then you never had any talk with her about selling her property, except on that occasion?

A. Not a bit.

Q. You never heard her talk about selling it but that once; she told you she had offered it and then backed out?

A. That is all.

Q. You say you went to pay her taxes once?

A. Yes, sir.

Q. When was this?

A. That is a good many years ago.

Q. How many?

A. 15 or 16 years ago.

Q. She went up-stairs and got some silver?

A. Yes, sir.

Q. And came down?

A. Yes, sir.

Q. She had not got the right amount. Were you tax-collector?

A. No, sir. I had been to the school-house and got an order to pay taxes, and I sold her *a* $17 for $15.

Q. You had been to the school-house and got an order. This order was good to pay taxes, an order on the county, and you took that order of $17 to her and sold it to her for $15?

98 A. Yes, sir.

Q. How came you to go to her to sell the order?

A. She asked me to.

Q. How much did she offer you for it?

A. She did not offer me anything. I told her I would take $15, and she said she would give it.

Q. Did you sell it to her?

A. Yes, sir.

Q. You said she went up-stairs 15 times?

A. Yes, sir; before she got the right amount. I started off and she called me back, and kept bringing down 5, 10, and 20 cents more at a time, and made up $10, and I started for home, and she went three or four times afterward to get the balance.

Q. When you was gone?

A. No; I was staying there.

Q. How long ago was this?

A. 16, 17, or 18 years ago.

Q. Did you think she was crazy then?

A. I didn't think she was; she was light-headed.

Redirect:

Q. You know the family?

A. Yes, sir.

Q. Do you know the complainant, Eli Allen?

A. No, sir; I don't.

Q. You don't know whose son he is?

A. No, sir.

CLAFFLIN LAFFERTY sworn for complainant:

Q. How old are you?

99 A. I am 53.

Q. How long have you lived in Detroit?

A. I was born and brought up here.

Q. Did you know Maria Genevieve Thebault?

A. I did.

Q. How long did you know her?

A. I knew her for about 30 years or over?

Q. How near did you live to her?

A. I lived right within a hundred feet from her building; that is, for about 20 years.

Q. How often would you see her, on an average, the last 20 years of her life?

A. Every day; sometimes two or three times a day.

Q. What was her condition towards the latter part of her life physically as to being healthy?

A. Towards the last she was sick.

Q. How was she mentally during those 20 years—how as to her mind?

A. She was a person that at times seemed to have her right mind, or acted very much as a person would who had her right mind.

Q. Did you you notice anything about her clothing—dressing—in winter or summer?

A. Yes, sir.

Q. How would she dress?

A. She would always dress contrary to the season. In the winter she would wear a light calico dress, and seemed as if she had not much underclothes by her appearance.

Q. How in summer?

100 A. In summer, at times I have seen her wear more clothing than she would in the winter apparently.

Q. Where was it that you saw her this time in the winter when she apparently had nothing on but her dress?

A. Somewhere betwixt First and Cass street—in that vicinity—if I am not mistaken; and I believe also a sun-bonnet.

Q. Carrying an umbrella?

A. Yes, sir?

Q. How would she carry it?

A. Right open; I have seen it.

Q. Did she carry that when it did not rain as well as when it did rain?

A. She was subject to carry that mostly all kinds of weather.

Q. What do you know as to when she was in her right mind, as to her being quiet, and kind, and refined; her appearance and conversation, or the reverse; what was the fact?

A. At times she was much reserved, and at other times she was a person, at home, I would not like to see her in the house; and my mother had to order her out of the house.

Q. Why?

A. Her language.

Q. Indecent language.

A. Indecent language before the family; and mother told her, "You have got to hush up; and I don't want *want* you to come in the house unless you can conduct yourself in a better way."

Q. What were her actions.

A. At those times her actions were generally very odd.

Q. Tell us what she would do.

101 A. When she would seat herself she would sit something like a man, set her legs out, and put her fists on her side, and act very odd.

Q. How as to her clothing; what would she do with her clothing?

A. I never seen her act any way indecent regarding her clothes; in indecency only by expression.

Q. What have you ever heard her say? Give us some instances of her conversation.

A. I have heard her sometimes, if she would happen to think about churches, anything of that kind, talking against the priests and ridiculing them like, saying all they wanted was money and such like, and she did not want to have them about her.

Q. Ever hear her talk about any other people? How as to her conversation being rational and connected, one sentence with another, right along?

A. When she acted in that way, she did not generally have any regular discourse—go from one thing to another—fickle-minded at these times.

Q. What do you know of her dancing; ever see her dancing or anything of that kind?

A. I have seen her sometimes.

Q. Ever had any other conversation or hear her say anything else? Give us some other instances of what she would say.

A. I don't exactly recollect the exact words.

Q. From all you saw of her, what was your opinion, up to the time of her death, as to her being sane or insane?

A. A few weeks previous to her death I could not say; I didn't see her for some time.

102 All the time you knew her, from the time you knew her up to the last time you saw her?

I don't know; I never tried to do any business or bargain with her, so as to know what way she would act.

Q. What do you know about her physical condition in the last of her life as to being cleanly?

A. There was a person I have seen at the time of the burial—(I was one of the pall-bearers; there was nobody to carry her, and I was asked, and I went)—the nephew was not there at the time of her death, and when they coffin them, they ask if any one wants to see the corpse, and the young man presented himself and said he would like to see her, and they uncovered the coffin-lid, and I seen the lice running over her face.

Q. Did you notice this before her death?

A. No, sir; I was in to see her, but did not notice that.

Q. Do you know who her nephew was?

A. I believe I recognize this young man to be her nephew.

Q. Do you know who his father was, or know the relationship?

A. I have seen his father.

Q. Who was he?

A. Mr. Allor.

Q. His first name?

A. I don't know.

Q. I want to call your attention particularly to this time in the fall

when you saw her with nothing but a calico dress on. Where was she; how far from home?

A. About a mile.

Q. What kind of a day was it?

A. Cold; the wind blew. I don't believe it snowed, to my best recollection.

103 Q. Very cold day?

A. Very cold day.

Q. She was there with apparently no underclothing?

A. You could see the form of her person, for she was heading the wind, and it was very cold.

Q. Did you speak to her at the time?

A. I did not; I was on the opposite side of the street.

Q. What else had she?

A. She had an umbrella, and I think a kind of sun-bonnet, pasteboard; she most always wore such bonnets as that—her ordinary habit.

Cross-examination.

Q. When was this you saw her dressed in this way, Mr. Lafferty?

A. Some time in January; I don't recollect the year.

Q. How long before her death?

A. A year or so; at least two years before her death.

Q. Did you ever talk with her much?

A. Oh, yes; she used to come to the house very often and see me, and sometimes I was in the habit of meeting her, and she would pass me the time of day, and ask me a few questions.

Q. She was quite abusive towards the priests generally?

A. She had a kind of hatred of them always. She thought all they wanted was money; and she was always kind of close or stingy in her general way.

Q. Did you ever talk with her about her property; did she ever ask you questions about it?

A. Not as regards making any bargains.

104 Q. Ever talk with you about the taxes—anything of that kind?

A. It is not fresh in my mind she has; she used always to keep a little of the discourse from me, because I did not like her to come to the house. She always kept a little reserve. I did not much fancy her visits.

Q. She lived alone, did she, all the while, nearly?

A. She most always had a family with her; parts of the house they used to occupy—several families.

Q. Rented part of it to some one?

A. Yes, sir.

Q. When she had no tenant in there she lived alone?

A. She did live alone.

THOMAS COQUILLARD sworn for complainant. Mr. Dolson sworn as interpreter.

Q. Where do you live?

A. On Congress street, between Antoine and Hastings.

Q. How long have you lived in Detroit?

A. I was raised here.

Q. How old are you?

A. 71 this month.

Q. Did you know Maria Genevieve Thebault?

A. Yes, sir.

Q. How long did you know her before her death?
A. 1814, after the war.
Q. How intimately have you known her?
A. I knew her, sir, intimately.
Q. Are you acquainted with her family?
A. Yes, sir.
Q. How many were there in the family?
105 A. I can't tell exactly; 7 or 8, I think.
Q. Do you know this Eli Allore?
A. Yes, sir.
Q. Who was his father?
A. I did not know him; he was a man from Montreal.
Q. Do you know whether he was any relation to Miss Thebault?
A. I don't know.
Q. Do you remember when Miss Thebault died?
A. Yes, sir; I heard it spoken of.
Q. How long before her death had you seen her?
A. She died about 11 o'clock, and I was in the house. I was there when she died.
Q. How long had it been before that that you had seen her?
A. Three weeks.
Q. During that winter before she died how often had you seen her?
A. Twice.
Q. What was her condition of health during that winter, physically?
A. She was sick.
Q. In what way?
A. She was sick all over.
Q. About her mind—how was she in her mind?
A. She could not talk a great deal. She was in bed, but she talked to me about this bargain.
Q. Whether her conversation during that winter at the time you talked with her was what you call coherent or incoherent?
106 A. She appeared troubled in her mind.
Q. In what condition had her mind been for 10 or 15 years before her death?
A. She appeared to be about the same thing; always troubled.
Q. What do you mean by troubled?
A. She didn't seem to know what she wanted to do; she was first one way and then another way.
Q. When she commenced to talk on one subject would she continue on that subject or change to other subjects suddenly?
Towards the last she would talk about this property.
Q. When she would commence on one subject during this time, talking on any one subject, whether she would continue talking on that subject until she finished or broke off on to other subjects?
A. I paid no attention, for I knew she had not her mind.
Q. How did she conduct herself, so far as taking care of herself and keeping comfortable in the house in cold weather?
A. I can't tell exactly, only she was very penurious and she deprived herself of much.
Q. What do you know about her keeping her house warm in cold weather?
A. Not very warm; she was so stingy.
Q. During the winter before she died whether she kept a fire during the cold weather?
A. During the time she was sick, persons told me——

Q. That I don't want. What you saw yourself when you were there?
A. I know nothing personally.
107 Q. What do you know as to her dress in cold and warm weather?
A. Very poorly.
Q. How was it as to her dressing in accordance with the season; wear thick clothing in cold weather and thin in hot weather?
A. My wife told her what she ought to dress in.
Q. Did you ever talk with her about her property down there?
A. Yes, sir.
Q. How long before her death did you ever talk with her?
A. Four weeks.
Q. More than once? Did you ever talk with her at other times?
A. Twice.
Q. When was it? One was four weeks before her death; when was the other time?
A. About a week before.
Q. When you talked with her in regard to this property where was she living?
A. In her house.
Q. When you held these conversations, did she converse rationally and quietly or otherwise?
(Objected to.)
Q. Whether she was quiet and coherent; did she talk properly about it; or whether she was rambling and incoherent?
(Objected to. Let the witness state what was said.)
Q. What was her manner when she conversed about her property?
108 A. I don't know; about the same as before.
Q. What was it before? Q. Whether, when she talked about this property, she talked in a coherent and connected way; or whether she talked in an incoherent and rambling way?
A. I could not say that she talked as she ought to talk. I wanted her to take it before, and she would not.
Q. What was her appearance and manner, quiet or excited?
A. She appeared as though she had not her mind.
No cross-examination of the previous witness.

MARIA JANE SUTTON sworn for complainant.

Q. Where do you reside?
A. Town of Waterford.
Q. What State?
A. Michigan.
Q. How long have you lived there?
A. Since last April.
Q. Where did you reside before that?
A. In Detroit here.
Q. For how long?
A. 11 years.
Q. Did you know Miss Maria Genevieve Thebault? Q. You are the daughter of J. W. Sutton?
A. Daughter-in-law.
Q. Where did you live prior to that; what part of the city?
A. In the west part.
Q. How near to Miss Thebault?
109 A. We lived on Fort street, and she lived on the river road at the crossing from her house.

Q. How many blocks?

A. I should not think it was more than one; right across the street.

Q. How long had you known her?

A. I think 5 or 6 years.

Q. How often would you see her during that 5 or 6 years?

A. The first part I didn't see her very often. Perhaps, sometimes once a month; then, perhaps, once a week; just as it happened. The latter part, I used to see her sometimes two or three times a day after I lived there.

Q. What was her appearance during this time?

A. She appeared very strange and queer.

Q. Give some instances.

A. Lots of times she would be talking to herself. The first times I saw her that she knew I lived there, I went to the door, and there was a board off the fence, and she stood there talking to herself. I spoke to her, and she looked up and seemed quite amazed; seemed wild like. She says, why, who are you? what do you want? I told her who I was, and she seemed very much pleased to think it was me, & come in a little while.

Q. When was this?

A. This was soon after I moved down there. I can't tell just when.

Q. How many years ago?

A. A few months before she died.

110 Q. She died in February, 1864. About how many months?

A. I think, perhaps, three months. I would not say for certain.

Q. What did she talk about when she came in?

A. Sometimes she would not say anything and sometimes she would talk to herself, but I would not know what she would say.

Q. Speak in French or English?

A. She generally talked to me in English.

Q. Speak English so you could understand it?

A. Oh, yes. Sometimes I would have to ask her over several times. Sometimes she would not talk to me.

Q. What other conversations have you had with her the times you heard her talk?

A. On different subjects. A great many times, about a great many things. She seemed to think a great deal about being rich and taking care of what she had, and going very dirty and filthy every way, and I think she was nearly starved.

Q. Give me one subject she talked about.

A. She talked about money and saving money.

Q. What did she say about it?

A. One day she told me she had money in the bank. She said "in course;" always said "in course; I have got a lot of money in the bank; that is the way people must have money; they must take care of what they have." Then other times she would want us to come and live with her.

Q. Who did she say?

A. Mr. Sutton and me. I told her of course. I excused myself as best I could; told her I didn't think Mr. Sutton would like to live

111 there. She said he was altogether too proud. It never would do at all. He might go there and live. He could have the rooms as well as not.

Q. What else did she talk about?

A. Another time she made me a present of a pair of cotton gloves.

Q. When was this?

A. Some time after.

Q. How long before she died?

A. Perhaps a month after this time that I first saw her there, may be two months before she died; I would not say for sure. They were gentlemen's gloves, cotton gloves, and a pair of hose.

Q. Where were you when she gave them to you?

A. I think I was in my own house.

Q. What were you doing?

A. I declare, I can't say what I was doing.

Q. Do you remember what she said when she came in.

A. Yes, sir. I remember they were tucked up like this, and she gave them to me like this. She says, "Here," like this, and she gave them to me. I think she said, "Here, there is something for you; that is not much," says she, and hits me, like this, and says, "Mind, you wait, one of these days and I will make it all right for you and me." I said, "Never mind, I don't want anything." Says she, "Never mind, I will have this fixed for you and me one of these days." I says, "Never mind,
112 Mrs. Thebault, I don't want anything;" and she gave me these hose—white this far round the top, and old-fashioned ones; and, says she, "They are nice; take care of them; they are nice enough for anybody; those gloves are nice enough for church; you must not wear them every day; take care of them." And she had an old fiddle—violin, rather. She thought a great deal of this violin. She kept it very nice in the bottom drawer of her bureau, and she wanted Mr. Sutton to take this.

Q. What do you mean by taking it?

A. She wanted to give it to him.

Q. What did she say?

A. She said he could have it just as well as not, if he liked it. He told her he did not care about it, because he could not use it; so she felt very indignant.

Q. What did she say?

A. Never do; too proud; never get along; never get rich; never get rich.

Q. How long was this before she died?

A. All this conversation took place all along, when she would go back and forth.

Q. How long a time was that?

A. Three months, as near as I can remember; I would not say for sure.

Q. What else would she talk about besides fiddling and sing?

A. She used to talk a great deal in a whisper; that is, at times she would not talk loud; and many times I have gone to her door and
113 she would not open it for a while. There was one day, certainly, I went there, and she had been there three days (so she told me) and three nights without any fire, and she was really cold and chilly. There was light snow, and blowing, and Mr. Sutton went back home and bro't some wood for her in a basket, ready cut.

Q. Had she any wood there?

A. No, sir; nothing to keep her warm with.

Q. What winter was this?

A. She was sick all this time—really too sick to even wait on herself.

Q. This was during the winter before she died?

A. During these last three months.

Q. Did she say anything to you about this time of having money in the bank?

A. Yes; that was the same time.

Q. Did you ask her why she did not have a fire?

A. I said, "Why, you are cold." "Yes," she says, "Mam Sutton; I I have no fire; it takes too much money to get the wood; too much money."

Q. What did you reply?

A. I said, "You must not be without a fire; you ought to have a fire and make yourself comfortable." She said it took too much money; she was too poor; and we went and got some wood and built a fire.

Q. Did you say anything to her at that time about having money in the bank?

A. No, sir.

Q. What else did you see that winter?

A. I don't know whether she had enough to eat. I never seen
114 her have anything, unless it was something somebody carried to her; and I many times asked her in when she was so sick she could not go but a little ways at a time.

Q. What seemed to be the matter?

A. She seemed to be out of breath, and I don't know what the trouble was. She said it was in her right side.

Q. What else did she talk about?

A. She asked me sometimes which way I came when I would come to her house. I would go to take her soup, and she would eat as if——

Q. What did you say?

A. I told her I came across. Says she, "Mam Sutton, you must not come across. Did you come on the tan-bark?" I said, "Yes." Says she, "You must not." She whispered, says she, "You must not come that way, because, if you do, there is a lot of white fleas jump on you." Whether she said on you or all over you I can't remember. She said they would jump on me, any way; little bit of white fleas.

Q. Did you make any response to that?

A. I told her I guessed they would not get on me, or I was not afraid—something like that.

Q. What else did she talk about? You were going to say something about her eating voraciously.

A. She would eat as if she was nearly starved. I would ask her to come in to eat something; and instead of eating with a knife and fork, she did not take a knife and fork—did not act as if she knew how to use one.

Q. What would she eat with?

115 A. Her fingers; eat off a plate with her fingers, and she was very dirty; you could not tell if her feet was the sidewalk, or what they were.

Q. What did she wear?

A. Wooden shoes, I think, down at the heel, and the stockings really nothing but holes, and you could hardly tell what they were, they were so dirty.

Q. Did you notice anything about her person? Was there vermin on it?

A. Yes, sir; and I seen them on her head when she was dying, and on the sheet.

Q. How long before her death did you notice this personal filth; how many months or weeks?

A. From the time I moved there. I noticed it because anybody to notice her would see it.

Q. Did you ever hear her talk about her property at all?

A. I did.

Q. During this winter?

A. Yes, sir. Along the last she said she thought a great deal of Mr. Dolson. I had heard Mr. Dolson spoken of; I hadn't known him by sight until I seen him there. She said she thought he was a very nice man. Of course I didn't know anything about him, one way or the other. And after awhile she would say she did not like him.

Q. What did she say after awhile?

A. She would say, "I don't like Dolson; I think Dolson ought
116 to get." This is the way she would make her hand go—"I think he ought to get;" all the time get, get, get.

Q. How would she look, making these motions?

A. Sw*are*, and put up her fist.

Q. How would her eyes look?

A. They would look this way.

Q. Roll around?

A. Yes; that is the way they looked most of the time to me when she was standing out doors.

Q. Did she say anything else about this property except what you stated one time and another, that you remember?

A. I don't remember.

Q. How did she dress during the seasons of hot and cold weather?

A. Dressed nearly the same; she used to wear a little brown sun-bonnet about as long as that.

Q. Ever hear her say she had any other clothing?

A. I know she had good things; coarse, plain speaking, of course: there was a satin skirt, and a red one, and a yellow one put away, and she had good hose, she told me.

Q. How would she dress in cold weather?

A. She had on a calico dress, and sometimes a thin little sort of an old shawl wrapped around her, and the sun-bonnet and short cape down to here; wore the same, summer and winter.

Q. What did she carry?

A. Sometimes an old umbrella; and once she lent it to me, and she told me I must be very particular with that umbrella; that it was
117 good enough to carry to church, and I must be very particular with it.

Q. For the time you knew her before her death, for the few months before, what would you say, whether she was in her right mind or not?

A. I don't think she was; she did not show anything whatever to my knowledge that she was in her right mind; I can't see how she could be.

Q. Let me call your attention to her language as to being proper and chaste, or being vulgar and obscene.

A. I know sometimes she would swear.

Q. How as to being profane, vulgar?

A. I can't remember her saying anything more than that—anything out of the way—still she might; she said a great many things I don't remember.

Cross-examination:

Q. How long did you live near this woman from the time you first knew her down to the time she died?

A. I think it was about three months, as I told you, down Fort st.

Q. About three months you lived near her?

A. Yes, sir; but I lived in the city here about eleven years, and soon after I came here I saw her to my father-in-law's, and saw her once in a while thereafter; I lived on Fort street.

Q. How did she appear when you first saw her?

A. She appeared odd; I seen her talking to herself, and she seemed different from other people, but still I know I heard her say these things.

Q. These things you have been speaking about?

118 A. Yes.

Q. These things are all you heard during the last three months?

A. Yes, sir; partly.

Q. During that three months you lived near her house?

A. Yes, sir; I don't think there was a block, I would not say just across the street; I lived on Fort street and she on the front of the river-road.

Q. Did you ever talk with her about conveying the property to your husband?

A. No, sir.

Q. Have any talk with her about it?

A. No, sir; I never have.

Q. Ever hear her talk about conveying the property?

A. She often spoke this way to me, but that was her own talk; she would say, "Never mind, Ma'm Sutton; one of these days I will fix this for us;" something like that, but nothing was ever said, nothing that I ever said or thought or cared anything about it.

Q. Did your husband try to buy the property during this time?

A. No, sir; he didn't use to go there very much.

Q. Don't you know that he tried to get this property from her?

A. No, sir; never did that I know of. I never heard of it. It was quite a good while before this that she was sick. My father-in-law had offered to buy it; talked of buying it.

Q. That is Mr. Sutton, your father-in-law?

A. Yes, sir; but not Frank Sutton. I never heard them say

119 anything about it, and I never heard her say he said anything about it.

Q What kind of eyes had this woman—what color?

A. I think they were rather blue or grey, or something like that. They were light and large—quite large.

Q. You talked with her considerable?

A. Yes; I talked with her a great deal.

Q. Do you speak French?

A. No, sir.

Q. Understand it when you hear it spoken?

A. No, sir; not to understand it; but she could talk with me. Sometimes I would have to ask her over two or three times.

Q. Speak English so you could understand her readily?

A. Yes, sir; I could understand her.

Q. You think she was not in her right mind?

A. No, sir; I don't think she was. It don't seem she could be.

Q. What makes you think she was not in her right mind, those things you have been telling?

A. Yes, sir; talking in the street.

Q. Did you ever know of anybody in their right mind to talk to themselves?

A. No, sir; I don't know as I ever did, particularly.

Q. Ever know what she said when she was talking on the street to herself?

A. No, sir.

Q. You don't know what she was talking about?

A. No, sir, I don't; I know that she would many times be standing

by the fence, taking hold of the fence like this, and rolling her eyes round, and talking to herself.

120 Q. Did she roll her eyes badly on these occasions?

A. Yes, sir; and a good many others.

Q. Do you know whether she was sick?

A. Yes, sir; she seemed to be sick all the time. She could only go but a little ways, and then stop and stand and rest. She was not capable of going out alone, but still she would go out.

Q. When did this rolling of her eyes begin? When did you first notice it?

A. The first time I saw her after moving to Lafferty's house, on Fort street, was by this fence, across fence. The boards were off, and we used to go through sometimes. She was standing by the fence talking to herself and rolling her eyes round.

Q. Was that the first time you noticed the rolling of the eyes?

A. Yes, sir.

Q. Was it a common thing for her to roll her eyes after that?

A. She seemed to act as if she was frightened many times when I would rap at the door, and would only open it a little ways.

Q. Roll her eyes always when she opened it?

A. I don't know that she did. She often wanted to know pretty well who was coming before she would let me in; put her face to the door, and ask who I was, and when I would tell her she would say, "Come in, Ma'm Sutton."

Q. This rolling of her eyes was not a regular habit; it was only when she had these spells?

A. She did it a good deal.

Q. Did she always?

121 No; but I think she did a great deal. I never took any particular notice of her eyes, or her either, very much before I moved to Fort street.

Q. You didn't know this rolling of her eyes was a habit?

A. I never noticed it before.

Q. Did that rolling increase as death approached?

A. I think it did, just a few minutes before she died. She seemed to be fairly, I don't know what; try to raise up and think she was not going to die—could not die.

Q. You don't think that anybody that had their senses about them would live as she did, having money in the bank?

A. I don't think anybody could live, and go so. That is what I did not think, and don't think so yet.

JOSEPH LORANGES sworn for complainant:

Q. Where do you live?

A. In this city.

Q. How long have you resided in Detroit?

A. I have lived in Detroit off and on for 60 years.

Q. What do you mean by off and on?

A. I have lived in Monroe some numbers of years, and the rest part in Detroit.

Q. For the last 20 years where did you live?

A. For the last 15 years I have lived in Detroit.

Q. Did you know Miss Thebault?

A. Yes, sir.

Q. How long did you know her?

A. Some 40 years; near about that.

122 Q. Do you remember the time she died? Do you remember the fact of her death? Did you hear of her death?

A. Yes, sir.

—. How long before her death was it you saw her?

A. I saw her some time—one, two, three, four, or six months—previous to her death.

Q. Do you mean at different intervals?

A. Different times; yes, sir.

Q. Where would you see her at these times?

A. I saw her near her house, and saw her at my mother's house.

Q. During these intervals, or during these interviews when you saw her, did you have any conversation with her?

A. I had no conversation.

Q. Did you hear her talk?

A. Yes, sir.

Q. Who to?

A. To my mother.

Q. In what manner did she talk?

A. I didn't think she talked very sensible.

Q. What do you mean by that? Explain how she talked that makes you think so.

A. She came to my mother's house, and wanted to pass over her property to her during her life-time, for her keeping.

Q. What did she say? Give me her language as near as you can.

—. She said she wanted to give herself to my mother during her life-time.

123 Q. She didn't say "she wanted," she said "I." Didn't she use the word "I?"

A. Yes, sir.

Q. That is what I wanted to get at; put yourself in her place.

A. "I want you to take my property, and keep me during my life-time, and you can have the property."

Q. Did you ever hear her make that proposition to any others?

A. No, sir.

Q. How many times did she propose that to your mother?

A. Only that time.

Q. What did your mother say to her?

A. I was living within a hundred feet of my mother, and she called on me.

Q. What reply did she make, (your mother,) when she made that proposal?

A. My mother called on me—I was within a hundred feet of her—and she tells me——

Q. No matter; was Miss Thebault present?

A. Yes, sir, it was in her presence—"Miss Thebault wants to give her property to me, for me to keep her during her life-time." I stopped, and heard Miss Thebault's conversation, and I turned about, and took her one side; says I——

Q. Did Miss Thebault hear you?

A. Yes, sir.

Q. Did Miss Thebault hear what you said to your mother?

A. Yes, sir, she did; she was there.

124 Q. Did she make a reply to , so you know she heard it?

A. She did not at that time.

Q. Did you speak in such a way she could have heard?

A. Yes, sir.

Q. What did you say to your mother?

A. I told my mother, after some conversation passed between them—I just called my mother one side, and told her I considered her out of her head.

Q. That was the impression made on your mind at the time?

A. Yes.

Q. When was this?

A. I don't recollect when it was.

Q. About how long before she died?

A. I should think it was some three, four, or five months.

Q. What other things in her conduct and actions had you noticed?

A. Nothing.

Q. Did you ever hear her say anything about any other people led you to think she was not in her right mind?

A. No, sir. No more than at that time.

Q. Did you ever have any conversation with her, when she spoke about her property, about what she thought about her property about others?

A. No, sir.

Q. Ever hear her express any opinion about the Yankees?

A. Not but at that time.

Q. I didn't mean that time. I expressly told you another time. Did you ever hear her?

A. Not except at that time.

Q. What did she say then?

125 She said the Yankees were gathered on her and throwing dirt against her face, and she would not have anything to do with them. Something of that kind.

Q. What did she say about Dolson; anything?

A. She did not speak about him that I know of.

Q. What was her manner when she was talking in this way; how did she act?

A. I made up my mind——

Q. How did she act first when she was talking in this way about the Yankees and the property?

A. She talked about one thing and changed.

Q. Changed to what?

A. To different things.

Q. Change before she finished the conversation about one subject?

A. Yes, sir.

Q. How was her manner or expression, her face, when she was making these remarks?

A. I thought she was wild; looked to me so.

Q. What do you know of any other actions; ever see anything else besides what you told?

A. No, sir.

Q. During all this time, five or six months before her death, from her conduct and all you saw and heard of her, what is your opinion as to whether she was sane or insane, whether she was crazy or not, or knew what she was about?

A. I made up my mind she was not of good mind.

126 Q. What do you mean by that; insane?

A. Yes, sir.

Q. From what you saw of her mental condition at that time, what is your opinion as to whether she could comprehend a legal document in the nature of a deed of that property with conditions in it for an an-

nuity paid to her for her support, and then to remit a house for her if she did not choose to stay there—whether she could understand and comprehend a thing of that kind or not; what do you think?

A. I don't believe she could understand it.

Cross-examination:

Q. Could she understand French?

A. Yes, sir.

Q. Could she read it and write it?

A. That I don't know; she could talk French.

Q. Do you know whether she could read and write English or not?

A. No, sir, I don't.

Q. You don't think she could understand a deed?

A. I don't think she could.

Q. Did you ever hear her try?

A. No, sir.

Q. Did you ever hear her try to understand any written instrument and have her fail?

A. No, sir.

Q. Did you ever hear her try to read anything at all?

A. No, sir.

Q. Were you ever at her house?

Yes, sir.

127 Q. When?

A. I was at her house a few days before she died, and after she died.

Q. Were you ever there before?

A. No, sir; I went by frequently, but was never in the house.

Q. You say you called your mother one side and told her you thought the woman was out of her head?

A. Yes, sir; that she was not fit to do any business of that kind.

Q. Did Miss Thebault hear you say that to your mother?

A. Yes, sir.

Q. What did you call your mother one side for, then?

A. I told her at the time and then I called her one side afterward, and she seemed to be quite provoked about it.

Q. Because you said what?

A. My mother turned round to her—"I will tell you how it was," says she, "I don't want your property, but you are welcome to the house as long as you please, your life-time, but I don't want your property," says she, "I don't want that."

Q. What else?

A. She heard the conversation; that was about all.

Q. How do you know she heard you tell your mother you thought she was out of her head?

A. I had made up my mind.

Q. Why?

128 A. Because she spoke in different ways; wanted to give herself for her life-time, and talked about other subjects, and one thing and another.

Q. Talked about different subjects?

A. Yes, sir.

Q. That is one reason made you think so?

A. Yes, sir.

Q. Have you given your testimony in this case before?

A. Yes, sir.

Q. Where?
A. In some office here.
Q. Swore to it?
A. I think I did.
Q. Do you know Dr. Truedell?
A. I do.
Q. Has he talked with you about this case?
A. No, sir.
Q. Has Mr. Naggs talked with you about it?
A. Naggs asked me what I knew.
Q. When?
A. Some time ago.
Q. Did Naggs tell you what he thought about it?
A. No, sir.
Q. Didn't tell you what he thought about this woman?
A. No, sir; he did not.

Redirect:

Q. He asked you if you ever heard her try to comprehend a legal document. Did you ever see any insane person try to comprehend a legal document?
A. No, sir.

129 PETER LAFFERTY sworn for complainant.

Q. Where do you live?
A. In the city of Detroit.
How long have you lived here?
I have been in business here about 14 years, for myself.
Q. Did you know Miss Thebault in her life-time?
A. Myself? Yes, sir.
Q. How long had you known her when she died?
A. I must have known her before she died some ten or twelve years.
Q. How much had you seen her; how often had you met her?
A. Before she died I saw her pretty often, for I kept a store near by.
Q. How near?
A. At one time within one block, or, the way the blocks are there, within half a block.
Q. How often would you see her?
A. Some days two or three times, and then again probably not more than once a week.
Q. Did you have any conversation with her during this time?
A. Yes, sir.
Q. About what subjects?
A. I don't know as there was anything particular about it; she would come into the store and buy little things.

Q. When she bought things did you talk with her?
130 A. Yes, sir.
Q. How did she appear in making her purchases?
A. She appeared very close.
Q. Anything about her appearance that you noticed?
A. I didn't see anything about her appearance any more than she was very close in her trading, and very talkative sometimes.
Q. What would she talk about when she was there?
A. About all kinds of things; about my parents, that she knew before I was born; she spoke to me about my mother lots of times.
Q. What else would she talk about?

A. Not anything that I can recollect now, particularly.

Q. Was the talk on her part usually coherent, or would she break off from one subject to another suddenly?

A. Yes, sir; very apt to.

Q. To what?

A. Talk of one thing, and then talk on another subject.

Q. Give us an illustration that you remember hearing her talk about when she would break off on some other subject.

One time she came into the store and was buying bread of me and one thing and another, and all at once she would begin to talk about being acquainted with my father and mother a long time ago, and drop that and price other things in the store.

131 Q. What was her manner when she had these talks? How did she look?

A. She always looked pretty near the same.

Q. Quiet, or excited?

A. She would get excited. A person speak to her about anything interesting as far as dollars and cents were concerned she would get very much excited.

Q. What did you ever hear her say about her property?

A. Nothing very much, except one time.

Q. When was it?

A. She was always speaking to me about being a great friend to my mother and so on, and she told me that so many times in the store, and I was just a new beginner there, and I mentioned to her one day, says I, "If you are such a great friend of my mother and a great friend of me also, I think a great deal of you;" says I, "You are alone and got a good deal of property; will you not will me the property when you die?" She got real mad.

Q. What did she say?

A. She said I was going to die before her.

Q. How long was that before she died?

A. It must have been two or three years, I guess.

Q. What did she say she was going to do with it?

A. She didn't say; she said I was going to die first, to illustrate to you how excited she would get.

132 Q. From all you saw of her actions, and conduct, and conversation, what would you say as to her being sane or insane, in her right mind or out of it?

A. I don't know as I would call her insane, but she was very peculiar; she was not very strong-minded, it was my impression; at the same time I could not say she was insane.

Q. Could you say she was entirely in her right mind?

A. There were times she acted as though she were not.

Q. How did this seem to be as she grew older, towards the time she died—improving or growing worse?

A. I can't say; she would talk alone along the streets.

Q. Have you heard her do that?

A. Yes; still there are a great many persons in their right mind do that.

Cross-examination:

Q. Did you ever hear her say anything about giving her property to the complainant?

A. No, sir, I did not.

Q. Never heard her say anything about that?

A. No, sir.
Q. Do you know what the value of that property was in 1863?
A. I could not state any value, for in reality I don't know the size of it, the dimensions.

JOSEPH KNAPP sworn for complainant.
Q. Where do you live?
A. In Monroe.
Q. How long have you lived there?
A. I lived there some time, and some time in the West, and some time over in Canada.
Q. Have you ever lived in Detroit?
133 A. I was here 22 years.
Q. When?
A. I lived in Detroit 14 years the 15th of next month.
Q. Since you lived here?
A. Yes, sir. I lost my wife——
Q. Was you acquainted with Miss Thebault?
A. Yes, sir.
Q. When?
A. At that time I was here. You know that time my wife lived.
Q. 14 years ago?
A. Yes, sir.
Q. Had you seen her since that?
A. Yes, sir.
Q. How long were you acquainted with her prior to that time?
A. I have been acquainted with the family a long time—about in '34.
Q. Did you know all the family?
A. Yes, sir; I used to.
Q. Know Eli Allore?
A. Yes, sir.
Q. Who was his father?
A. His father, I used to know him.
Q. Who was his father?
A. His father died.
Q. What was his name?
A. I have forgotten his name.
Q. What relative was he to Miss Thebault?
(No answer.)
Q. For these 15 years, how long did you know Miss Thebault?
134 A. I knew Miss Thebault the first year; I know all the family; that is, in 1834.
Q. How near did you live to Maria Genevieve Thebault?
A. I lived about two years.
Q. Where?
A. In the same house.
Q. How many years before you left Detroit that you lived in the house with her?
A. I never left Detroit before I went to live with her.
Q. How many years before you left was it that you lived with her? How long did you live in the same house?
A. I told you I was there two years.
Q. Was that just before you left Detroit?
A. Yes, sir.
Q. What can you say as to her appearance and conduct and actions during that two years? How did she act?

A. She acted a good many different ways—some of them good and some bad.

Q. What do you mean by that?

(Mr. Robinson here takes the examination of the witness, by consent of counsel.)

Q. State what Miss Thebault's peculiarities were. Commence and tell when you first noticed her peculiarities after you got into the house.

A. I will tell you the plan to myself. I went to rent the house of Miss Thebault. I had all down-stairs to her house and she was up-stairs, and then she has got the privilege to go out door and go back, and pass the same room where I was, and use the stove. Then we
135 got along a week or two like that. I thought I had a good woman, and then she would pull your hide off.

Q. State how Miss Thebault was at nights.

A. All the rest was dead.

(Interpreter puts questions:)

Q. I call your attention to Miss Thebault's conduct the first few nights after you moved in the house. Tell what occurred.

A. Everything went well enough the first night I lived in the house, except she seemed to be wild. She would talk one moment about an Indian and then about a wolf, and be wild about a good many things. I lived two years with her in her house and suffered a great deal—suffered from her on account of her manners and conduct.

Q. What did she say and do when she talked Indian and French up-stairs?

A. I think the devil could not understand, because she talked in a kind of gibberish no one could understand.

Q. Repeat the conversation you had with her the next morning after she would talk in Indian and French.

A. The first night she was acting that way she scared my wife. She did not scare me; and then the next morning she came down I told Miss Thebault, "How do you feel this morning?" Says she, "I feel well. I feel well. I feel well." Says I, "You had not much rest last
136 night." She says, "How you know I did not rest much. No! no! no!" I asked her, "What the devil you had? The devil was with you all night, I guess—part of the night anyhow—because I don't know how long I fell asleep before you got through talking. What did you see last night?" "When! when! when! Up-stairs?" "Who trouble you? Nobody trouble you. You lock the door and you got your key in your pocket. Who trouble you up stairs? I thought there is somebody there with you. I thought it was the devil. I am sure of that." "Hah! nobody. You lie! you lie—lie! I never talk to nobody at all." My wife, says she, "Miss Thebault, if my husband lie, I don't lie, and you scare me last night." I say, "Yes, I hear, too, the people what stay here with you; you scare her. You been here all right; if you go along all the time in that way, I am going to leave you. I dont want to stay with you that way at all." She say, "Hah! ta! ta! ta! ta! ta!" She go on the stair and lock the door. Well, I went to work. That time I worked for Mr. Lafferty. Well, the next night I didn't hear nothing at all. Well, two or three days after that I hear the noise begin again. She didn't talk in English at all. She talk in Indian and French, and I didn't know what she mean to say when she talk about my brother-in law, Joe B.

Q. Is he dead?

A. Yes, sir; used to live with her. I went there myself after, and then she was quarreling all the time mostly with him.

137 Q. In the night?

A. No; in the day-time, too. Then she say she saw him in the night. Then she wanted to kill him; she had a little tomahawk, and then she would run round and walk up stairs. "I split your face. I break your God-dam'ed head;" made me laugh. My wife was scared. "Oh, don't mind her," I say. The next morning when she came down, when she dream like that, she look ten times worse the next day.

Q. This was in the night?

A. Yes, in the middle of the night.

Q. Up-stairs?

A. Up-stairs. She slept alone up-stairs.

Q. How long would she talk this way?

A. I would wait, and sometimes about an hour and a half and two hours I fall asleep, and I would hear her talking. The next morning I ask her, "Miss Thebault, you had some vision last night; did you see B———?" "Who tell you I see Berisha?" "Well, you run after him all night. You wanted to kill him." She did not say nothing—would not answer me at all, and then she went up-stairs.

Q. What did she have up in her room; you speak of a tomahawk?

Yes, a little piece of sword, all rusty, alongside her bed. Her bed was on the floor.

Q. How often did she have such spells?

A. Sometimes twice a week, and sometimes two or three weeks she had none at all.

138 Q. Was she so all the time you were there?

A. She acted so every night.

Q. Until you left?

A. About two or three days before I left she talked and walked every night.

Q. What kind of a room was it?

A. Just a loft, not finished—open.

Q: Did you know her mother?

A. No, I did not know her mother, or father either.

Q. How did she appear in the day-time? Did you see anything queer day-times in her conduct.

A. Not like another woman in the day-time; she seemed kind of wild during the day-time.

Q. Do you know when she sent for Eli Allore, or anything about her sending for Eli Allore?

A. She sent by me. They were to go to Monroe to buy some chickens and to stop and see Allore; requested him to go and see him.

Q. Miss Thebault sent by him?

A. Yes, sir; John Lassell to tell Allore to come and see her.

Q. Do you know anything about Allore's having been married about that time?

A. He was married before this time.

Q. Did he go; and, if so, what took place?

A. He came. I forget if it was two or three weeks after that him and his wife—he came on Saturday; very cool weather. He come along with a man he had a chance to come with. When he got home Miss Thebault was away. She started on Saturday about ten or eleven o'clock. She came here in the city most every Saturday and then

139 come back at night, and when Mr. Allore got home he did not find his aunt there. He find my wife. He inquire for his aunt. My wife told him she expected her every minute.

Q. What took place when she come?

A. She was gone to the city; well, he stayed there, and Miss Thebault came back about 4 o'clock, I guess maybe that, and then Mr. Allore, as soon as he see his aunt, he come up, "How do you do, aunt?" shook hands with her. "Ha, how do you do; how do you do? Sit down." Mr. Allore want to introduce his wife. "How do you do; how do you do? Is that your wife?" "Yes." "Sit down, sit down." Then she went up-stairs. She had a little basket of things; she went up-stairs, and a little while after that she came down. "Now," says she, "I want to know what fetched you here?" Says he, "I had a chance to come, and you sent me word from somebody, and I have come to see you, to visit you." "Who to, who to?" He replied, "Mr. Knapp." Says she, "That is a lie; that is a lie." I told Miss Thebault myself I was there. Now says I, "Miss Thebault, if I lie you lie too." Now my wife said, "Miss Thebault, I am not a liar, because I heard myself you giving word to my husband here and Mr. Sepper and to come and see you." "Well, well, well, I don't care; I don't care; I don't care." Well, it come nigh time for supper. He got the supper with me.

Q. What did she say?

140 A. She says, "You have got no supper?" "No." "You got your dinner?" "Yes; we took a bite along the road." "Hah, well," says she, "I am going to supper; you can't take supper." Well, we go to supper, and it appears me she did not take them supper; she did not get no supper nor nothing at all. Mr. Allore got supper with me, and then next morning he had his breakfast——

Q. Who had?

A. With her.

Q. Who had?

A. Mr. Allore. It was on Sunday; had got his breakfast with her, and then he got his dinner with me again, and then supper with me; and then Monday, early in the morning, Miss Thebault come down. Says she, "You going back home to-day?" He said, "Yes; I am going back home." "Well," says she, "don't go home; don't go away now; I am going down to the city, and when I come back I will get the breakfast." She come here to the city and we had breakfast; he took his breakfast with us, and when Allore left her home, about 11 o'clock, Miss Thebault had come back about noon, and then she inquired about her nephew, and that is all about it for that time.

Q. Why didn't she get him and his wife meals?

A. She got him one meal.

Q. Why didn't she get all of them?

A. I don't know; because she was two stingy.

Q. What kind of meals did she get?

A. I did not know he had been up-stairs at all. Very poor meals. A little johnny-cake and a little piece of butter, and then she used
141 to take the tea-pot when we got through and put some water on top, and take it up stairs, and that is the kind of tea to drink.

Q. Do you know anything about his fixing sling, you advising him, or anything about whiskey-sling?

A. I did not notice it.

Q. Did you hear any conversation with reference to drinking any whiskey to cheer up the spirits?

A. I never hear about it at all.

Cross examination:

Q. When was you subpœn'ed here?

A. Thursday last.

Q. Where was you subpœn'ed?
A. Pleasance Bay, three miles below Monroe.
Q. Who subpœn'ed you?
A. Mr. Naggs.
Q. Did you talk with Mr. Naggs about your testimony in this case?
A. Yes, sir; I asked him why I should come here, and he said it was in reference to Miss Thebault's affairs.
Q. Had you ever had any talk with Mr. Naggs about these matters before?
A. Never.

ELI ALLORE sworn for complainant:

Q. You are the complainant in this case, I believe?
A. Yes, sir.
Q. State whether your uncles and aunts are living or not.
142 A. No, sir; none of them.
Q. Are any of the children of your uncles and aunts living? You are the only child of the Thebault family that is living, and the only heir of Miss Thebault that has been spoken of?
A. Yes, sir.
Q. State whether you visited your aunt after your marriage or not.
A. Yes, sir; Mr. John Lappell came after me and told me my aunt wanted to see me right away. He told me that the same as to-day, and the next day I went and hired a team, paid $5, and came right down. It was Peter Brimsha. I gave him five dollars to take me down to my aunt.
Q. What took place?
After I got there my aunt was not there. She was gone, this woman told me. This man was not there. His woman told me she was gone to the city. We stayed there until she came, and after she came I asked her how she was; made her acquainted with my wife. Says she, "Sit down, sit down, sit down," and after that his wife put my clothes on the floor, my things, and told my aunt to take care of them things.
Q. Mr. Napp's wife?
A. Yes; told my aunt to take care of my things. She had put them down. She said, "No, no, no; they can take care of their own things," and my aunt went up-stairs. Mrs. Knapp put our things away. She had asked me to come and see her very bad for something; I did
143 not know what. I came for supper. I had no supper. I had supper with this man; had dinner with this man. I took one meal with her in the morning or the evening; to the best of my recollection in the morning; but it was no meal at all, nothing but a little cake of Indian meal cooked on the stove and dried, and a chunk of butter, and a little preserves, (plum,) and a little coffee, and a little tea-pot held two cups of coffee, and I believe that is all I had.
Q. A very meagre meal?
A. Nothing you could eat at all.
Q. Why did you not take the rest of your meals there?
A. She would not give it; she said, "I will prepare you a good, nice meal; go to the grocery and buy things;" but never done nothing at all; her mind changed as she speaks, exactly.
Q. Do you remember anything about that whiskey-sling?
A. Yes, sir.
Q. What about that?
A. Mrs. Knapp told me to go out and get a pint of whiskey-sling. I went and got the pint of sling; thought it might make her come to her

head better. I went and got the pint of whiskey, and we fixed the sling. If I ain't mistaken, I think Mr. Knapp was along. I ain't sure Mr. Knapp was; Mrs. Knapp was. I rather think this man was when the sling was made, but I was sure Mrs. Knapp was. But when I made her the sling, she would not drink it; she said there was
144 poison in it to kill her. "No," I told her; "I did not come here to hurt you at all," and then I tasted of her own glass. Says she, "You let me know; now I can drink it." Then I let her have the glass and she drank it.

Q. When did you go there again?

A. I believe I went there one year after that—just about one year—me and my brother and my wife—maybe not quite a year, and maybe a little more; I did not put it down on paper.

Q. What happened?

A. After I got there, she did not want to lodge me at all. She said she had not lodging for herself; she had to lodge with the priests; and I went away from there and went to Loranger's barn, where there was hay, and went in there; and old Mrs. Loranger was very sick, and one of Loranger's thought she would not like to have us, because my woman had a little child, and it would trouble her some; she was very sick to bed, and one of Loranger's boys could not stand that, and told Mother Loranger it was a shame, after raising me four years, that we must sleep in the barn, and Mother Loranger heard it, and she cleared for us.

Q. Why didn't you lodge at your aunt's?

A. She was lodging with the priests and could not lodge us.

Q. State any conversation you ever had with your aunt in reference to her property—what she said about it.

A. She told me once—that was long ago, eighteen years ago, ten years before she died, I believe—that she was offered for her lot
145 $400 from a man for 10 years, and this man would fix up her lot, raise it up, and put a big building on it, and after ten years he would leave it to her, and would pay her $400 a year during the 10 years.

Q. She told you that?

A. Yes, sir.

Q. When was this?

A. That was about 10 years before she died, 17 or 18 years from now.

Q. What else did she say about your having the property, or anything?

A. At that time, when she spoke about the building, I seen her beginning to break up her story; she broke up in a few words.

Q. What do you mean by breaking up her story?

A. Speak one way and change right off to another subject.

Q. What did she say? Tell how she talked.

A. I can't say. I could not understand what she said. I would understand a word or two, and then I could not understand what she said. She would speak about old man White, how rich he was, and after that no man could understand what she said.

Q. What was you going to say then; did you have any further conversation with her about her property?

A. No, sir.

Q. Did she ever tell you that you could have any of her property, or she was going to leave any property to you—anything of that kind?

A. She told me the time I came there, when Mr. Knapp was
146 there. She spoke to me about the property there. Says she, in this way: This man, Mrs. Knapp, says she, comes here to see me,

(and Mr. Knapp) comes here to see me for the money I took from his father. Says she, "I don't care if he sue me; it is only $2,000 in silver I took there, and I will return it back to him if he sue me; but he will never get a thing from me until that will be the end of it." Mrs. Knapp told me to sue the old woman. I says, "No; I won't do so; but I will one day get the money and get the lot and get all she has. I can live without that; but I am a poor man, I am a boy, and I have a farm, and if I sue her I will just get that."

Q. What did she ever say to you in reference to having money in the bank—that she had money any there?

A. She told me once a few words. She told me she had $22,000 of paper money in one bank, and the bank broke, and the money was not good for anything, and there was a man come there to buy the money at two shillings on the dollar, and she was very mad and drove him away; and after that he came again (the same man) to buy at 50 cents on the dollar, and she sent him away, and was very mad. Says she, "I will lose the whole or get the whole. I can live without that," says she; and then the third time they went and offered her 75 cents on the dollar, and she took the broomstick and drove them away; and, says she, "My money all come good, and I got the silver and replaced it good."

Q. When was it she said this?

A. I think this was about 19 years; just about 19, I should rather think, to the best of my recollection.

Q. Ago?

A. Yes, sir.

Q. About 11 years before she died?

A. Yes, sir.

Q. When did you last see her?

A. I seen her, I believe, one year before she died; maybe over.

Q. Was it this visit with your wife and child the last time?

A. No, sir.

Q. State when you saw her last.

A. It was my wife and my brother; that was the time she did not want to lodge us.

147 Q. That is the time you saw her last?

A. Yes, sir.

Q. When was that?

A. That was the year before she died.

Q. How did she appear then?

A. She didn't have no mind at all, because you could not understand what she would mean, and what she would say at all.

Q. You did not see her in her last sickness?

A. No, sir; nobody let me know; I would have give a good deal to have come.

Q. How did she talk this last time, before she died? Tell what she said.

A. She had no good sense at all.

Q. What did she say?

148 She would say one word I could understand, about the first or second word, and that would be the last; I could understand no more. If you were to hang me I could not understand a word more. And another thing, I did not like to go there; I was afraid of her; she said to myself she would choke me.

Q. Did you consider her in her right mind?

A. No, sir, not at all; she seemed to love me a great deal, and just right away after, in a second, or a half a minute, she would be right

against me. When I thought she would be in her right mind she was not, so she would turn right off.

Q. Was there any message come to you *in* from the defendant in this case, or from Mr. Dobson, with reference to settling the case after her death?

A. Yes, sir.

Q. What was that message?

A. I can't remember whether Mr. Jewell sent for me or Dobson. They had a message for me to come up, and I came up right away; I had the message in the evening, and the next morning I went right up.

Q. When you came, who did you see?

A. I believe it was in the morning or evening.

Q. Who did you see when you came here?

A. The man was just gone about an hour.

Q. The deft., Jewell?

A. Yes, sir; he had a telegraph to him from New York, and he went right off, right away.

Q. Who told you this?

A. Mr. Lafferty, to the best of my recollection.

Q. Did you see Mr. Dobson at that time?

149 A. Yes, sir.

Q. Have any conversation with him with reference to settlement of this case?

A. I spoke to Mr. Dobson, but I really don't remember what he told me.

Q. This deft., Jewell, had left, and you could not do anything about it.

A. Yes, sir; they had telegraphed for him to come right away, and he went right off, and I got there behind time.

Q. Didn't Dobson tell you what they sent for you for?

A. I don't really remember.

Q. You can't tell which one you saw?

A. I did not see this Jewell; this is the first time I see him.

Q. Did you see this man?

A. Yes, sir.

Q. What did he say?

A. I don't really remember.

Q. What was the substance?

A. He told me he was just gone and could not do nothing.

No cross-examination.

Dr. SAMUEL TRUEDELL:

Q. Where do you live?

A. I live at present in the 9th ward in Detroit.

Q. How long have you lived in Detroit?

A. Since the year 1837, in the winter time, in the month of January.

Q. What is your profession?

A. I practised medicine since '22.

Q. Are you a regularly admitted practitioner?

150 A. No, sir.

Q. Studied in a medical school?

A. Yes, sir.

Q. What school?

A. I studied with Dr. Wilburn from 1827 to '28, then I studied from 29 to '32 with John Winson.

Q. How long have you practised medicine?

A. Since 1835.

Q. Know Miss Thebault?

A. Yes, sir.

Q. How long had you known her at the time of her death?

A. I knew her in '37, and I commenced to be her physician in 1838; according to my book, I attended her in 1838 for the first time.

Q. State how fully you completed a course of study in medicine before you commenced practice.

A. I studied four years, but there was a law passed during the time I was at Cape Breton requiring students to study five consecutive years before they could be admitted, and I had a prevented me from finishing.

Q. From that time along, how long were you her physician, '38?

A. Until she died.

Q. How often did you see her during her life-time; how frequently did you meet her?

A. During the time I was living with my stepmother on Woodbridge street I might have seen her daily; I would not say I really did every day.

Q. When was that?

A. Since the time I first commenced to be her physician.

151 Q. For how many years did you see her daily?

A. Until the year '48 or '49, when I built myself a house on Fort street, west.

Q. After that how often did you see her?

A. After that I might have seen her once a day or once a week, or more or less.

Q. During these last ten years of her life what was her bodily condition, as to being healthy or being sickly?

A. I would treat her every year in the summer; she would complain of dizziness and pain in the bowels, and my general treatment was to advise her to keep her head cool, and physic her.

Q. For the whole year what would you say as to whether she was healthy or sickly?

A. I think she was healthy considering everything.

Q. Subject to these attacks physically?

A. Yes, sir; bilious attacks and dizziness in the head.

Q. What would you say as to her mind during this time, whether her mind was sound or not?

A. I have always paid attention to her from the beginning of her singular manner; her conduct and her manner of talking inclined me right at once to the belief that she was working under partial insanity.

Q. From how early a time did you notice that?

A. From the beginning almost, and I spoke to my step-mother, Mrs. Lafferty, about it.

Q. Down to how long before her death did this continue?

A. She was almost in the same condition, and sometimes a great

152 deal worse. At the time of the coming evacuation she was worse.

Q. What was the fact as to its growing better or worse during this time up to the time she died?

A. It was worse during certain times.

Q. Generally did it grow worse or did she improve?

A. She never improved, but she did decline.

Q. Have you had some experience in your profession in cases of insanity and mental aberration?

A. Yes, sir; I have.

Q. You have given it some study?

A. Not particular.

Q. Some study?

A. Like others, when I had a case I paid attention to it.

Q. You stated that, as a physician, you considered her in this condition; now state what some of the symptoms which she gave were, as to her talk, and how she talked.

A. She would talk short and very fast, with a gesture in a quick manner and a quick way; her expression was fast and quick.

Q. How would that conversation continue, on the one subject?

A. Not long; she would change her conversation very often; she never would talk on one subject very long at no time; I have had conversation with her, and when she was sick even, she would stop and she would not answer one question.

Q. How long was this before her death?

A. All the time from the time I have known her until she died.

Q. What disease did she die of?

153 A. Of a lung difficulty.

Q. How long was she sick with that last sickness?

A. I think she was taken sick in October. In October she spoke to me about it to attend her.

Q. October before she died?

A. Yes, sir.

Q. How rapidly did that disease work upon her?

A. I believe that disease had been working upon her for about two or three weeks before she applied to me.

Q. And this was October she applied to you?

A. The latter end of October.

What condition was she in physically?

She was very hoarse; could not articulate words, and her breathing was very hard although she was in the street, walked about her business as usual.

Q. How long did this continue?

A. I commenced attending her, by my notes, about the 4th or 5th of November. I had refused her; told her I really could not do my duty as long as she would have no one to take care of her.

Q. How long did she continue out doors before she went to bed?

A. I believe it was in December, the latter end of December, she took her bed. I believe in November she was busy, and I believe she made the sale of her lot away in the latter end of November; I don't know the date when she made it. She was up then, and I believe in the beginning of November she took her bed again.

Q. Come back again; I asked you as to symptoms; you gave first, the incoherent expression in her conversation. Now what else was there about her, that you saw, induced you to believe her insane?

154 A. It was her conduct.

Q. Describe it.

A. Her actions and expressions and gestures and her odd manner; I should say it was very extraordinary.

Q. Tell us something else she would do.

A. I don't know by what circumstance to begin, there are so many during that time. I have seen her at work at the fence some time when the weather was very bad, very inclement, making the fence and putting the posts in the ground, and sometimes I made observations to her when I passed by, to wait until the weather was better. She didn't care; answered very quick and in very few words.

Q. What else did you see her do?

A. She commenced telling me of seeing a light, and I thought it was partly insanity or delusion.

Q. When was that she told you about seeing the light?

A. I believe in the fall of the year; I can't tell what year.

Q. About how long before she died?

A. Many years.

Q. What did she tell you about the light?

A. She very often saw a light and she did not know where it came from.

Q. What did you say to her?

A. I told her it was very singular. Says I, "Was it the moon?" "No, there was no moon." "Stars' reflection?" "No, no stars." I knew pretty near about it, and says I, "When you see it again call on me and I will see." So one night she came to me and I went over with her, and, of course, there was no light.

Q. When you came over what did she say?

155 A. Says she, "Don't you see it?"

Q. Were you in the house?

A. Yes, sir.

Q. Where did she say the light was?

A. All over the house. She asked me if I could see it.

Q. What did you say?

A. I said I didn't see none.

Q. What did she reply?

She says, "Don't you see the light there?" Says I, "No, I don't." Says she, "You must be blind." I went away; I knew what it was.

Q. How many times did she tell you this?

A. Several times, in different conversations. As to time, I can't recollect.

Q. What else did she ever tell you she saw?

A. She told me that there was an old lady that was dead; she told me she saw that old lady, right in the day-time, going to get water in the river right on the board she had placed there to get water, and she said she knew her and spoke to her, and she had seen her very often that way.

Q. About how long was this before her death?

A. It was many years, but it is impossible for me to remember dates.

Q. What else did she ever tell you?

A. There was so many things in her life, in her saying and doing, that I can't recollect them all

Q. Do you remember any others?

A. About her dress and about her going about at different times: I recollect once, it was a fine, beautiful day, I was going up-town on

156 Fort street; I was living there; and she was coming down right by the house of Mr. Stone, and I met her, with a big, large umbrella and a kind of German color, light, and she was cloaked up with a kind of reddish shawl, like as if it had been in the middle of fall weather or winter, dressed very warmly. I spoke to her: "Are you sick?" "No, I am all right."

Q. What season of the year?

A. It was in the summer, early in the morning. I believe, by the way, (she was walking—a-foot,) she had been to church in the morning.

Q. What was her language?

A. Very improper at times.

Q. What do you mean by improper?

A. When she was in her mood, angry, she would use very improper

expressions—vulgar, swearing, cursing. I would not like to repeat all the swearing.

Q. What do you mean by cursing?

A. Taking the name of God in vain, and talking against the priest, &c., and cursing him and damning him.

Q. Curse anybody else besides the priests?

A. Yes; almost any of those who went to have any dealing with her or about the property; called them a pack of thieves.

Q. Who did you hear her name in that way?

A. Francis X. Cicott. She used to come and take advice about selling her property.

Q. Who else did she curse besides Francis Cicott?

A. Most all the neighbors—my brother-in-law, Alex. Lafferty, and those who were living with her; she always had difficulty with them.

Q. How did she live in her house—alone or with company?

157 Partly; she was not alone all the time. Sometimes she would lease her house to a family, and she would stay up-stairs.

Q. When she staid in the house whether the house would be secured, locked?

A. When she was in alone, generally, the house would be locked.

Q. How do you know?

A. Many times I tried to go in there, but the house was locked, and she would not open to anybody. She had a certain time she would be angry and use profane language, and at other times she was joyful, jovial, and ask me to her house. Off and on, she was quite jovial. Mrs. Lafferty used to remark to me: "You can talk to Miss Thebault to-day; she is all right," and other times she was locked up three or four days to a stretch.

Q. Were those the times you would go and would not get in?

A. Sometimes.

Q. Would you know she was there?

A. Many times I would ask Mrs. Lafferty. She would say, "Yes, she is in here."

Q. Would she explain it after?

A. No.

Q. You speak of her having sudden fits of anger; what occasioned them?

A. There was no apparent cause. She would come over to the house, and commence to talk against the priest, (there is where Mrs. Lafferty would make the remark,) using very vulgar language, talking against the priest; and Mrs. Lafferty would say "Don't talk to her to-

158 day; she is in a bad mood. Send her off," and at other times she was quite jovial.

Q. I want to know whether there were any other evidences of mental aberration that you think of?

A. It is the hatred she had against her own near relatives, and this is a particular evidence of insanity. She would not have a relative in her house; one day her nephew spoke to me.

Q. Was she present?

A. I think she was.

Q. If she was, you can tell it?

A. It occurs as though she heard the conversation, because I spoke to her myself. When he came she sent him off. I believe that night he had to go and sleep in the barn of Mr. Lafferty. She would not receive them, and the next day I asked where they were. She cursed

and swore, and said she was not going to keep them at her own house all the time.

Q. Did you ever have any conversation with her in regard to ghosts and apparitions about her house?

A. She was a great believer in dreams. She was quite superstitious. She had a book of dreams that I had been to get when Mr. Dobson was taking and selling them books, and many times she used to talk to me about dreams—asked me whether I would dream. I said "Yes." She said she would give me an explanation of the dreams. Well, I never paid much attention to it, but after her death I found that book.

159 Q. What did she ever tell you about ghosts or dreams—anything of that kind?

A. One story was about going to hell; people had been in hell and come back.

Q. Give her language as near as you can.

A. The question was put to me whether I believed that any person that had died or were dead long and went to hell could come back from hell. I laughed at her, and told her no. She said she knew it was so.

Q. Did she say how she knew?

A. She had either seen or read of somebody that had been and got back again.

Q. Did she ever tell you about seeing ghosts?

A. In her own house generally, and sometimes in Mrs. Lafferty's.

Q. What did she say about ghosts?

A. She believed, she said, she could see them and talk with them.

Q. Who did she say she had seen and talked with?

A. A lady. I don't recollect her name; she never named many; but an old lady named Trumbull; I believe she named that one to me, if I recollect.

Q. Any others she ever told you she saw?

A. I believe she did many times; I don't recollect.

Q. What was her personal condition as to being clean or filthy?

A. She never had any cleanliness about her; I never did see her once with a clean dress on that was appropriate for a lady to wear.

160 Q. Towards the time of her death did that habit of filthiness grow better?

A. It never increased for the better; I never seen her better from the first to the last; a dirty, nasty condition; I don't think she washed herself once a month.

Q. Know anything about her dancing?

A. Sometimes I have seen her jump; but I never seen her dance.

Q. During the last few weeks of her life, I call your attention to that; for a year before she died what was her mental condition during that year before she died, in your opinion?

A. It is a general rule with us to consider, as a person advances in age, the brain is deteriorated and of course loses its strength.

Q. Aside from the natural tendency of age to weaken the brain and mind, what would you say as to her mental condition besides what was attributable to her age?

A. I know that she was not competent to transact any business whatsoever myself.

Q. I ask you, not as a physician but as a private person, from what you saw of her outside of your professional inspection and view, from what you heard her say during the last year or two of her life, should you say she was sane or insane?

A. I always called her crazy Kennett.

Q. Would you say she was sane or insane?

A. That she was insane.

Q. Now, as a physician and an expert, knowing her as you did as a physician, and having studied this disease, should you say whether she was sane or insane?

161 A. She was partially insane; that is my belief as a physician.

Q. During the months previous to her death, two or three months, especially in November, after you began to attend her, how would she appear mentally?

A. Dejected. She was not talking quite so fast as usual, it appears to me; she was kind of moderate, low, dejected, lowness of spirit.

Q. Was that physical or mental?

A. Mentally.

Q. How was her conversation at that time—any more coherent than it had been, any more sane or connected?

A. Her talk all the time I had been acquainted with her was very near bordering on the incoherent, but I can't say she was, but she was what we call in French ———.

Q. What does it mean?

A. That is the same word that a person that can reason, although they are partially insane, they can reason upon many subjects well enough to be understood.

Q. Was there any one subject you noticed she was more violent upon when she talked than another?

A. It was more violent when it was about money.

Q. How as to her property—when she talked about her property, was she coherent or incoherent?

A. She was coherent when she talked about selling her property.

Q. What would she say about that?

162 A. Soon after I gave her advice to sell, and a man was there, right away next day, and after agreeing with me she would sell she would come back and tell me they were devils, and if they had offered her $3,000 shortly the property would be worth more, and he would give her $3,500 pretty soon.

Q. You have heard the deed mentioned in this case—the deed given to Governor Jewell?

A. No; I did not know at the time she had sold.

Q. Have you heard since?

A. I have not seen the deed.

Q. A deed given of this property. You know where the property is.

A. Yes, sir.

Q. Given to Jewell in November before she died, November 23.

A. Now, I believe, I can answer. I believe Mr. Dobson told me the conditions.

(Counsel reads from the deed.) I want to ask you whether, considering her mental condition, you think she was competent to understand such a legal document in that month of November.

A. I believe not.

Q. Do you know the family?

A. Yes, sir.

Q. How many of them?

A. I know her mother and sister—that was the mother of complainant here.

Q. What was the complainant's mother's name—her sister?

A. I don't recollect.

163 Q. As to her mother, what do you know about her mother—her mental condition?

A. Besides my own opinion, I had the opinion of many other', and they all said they were all very weak-minded people.

Q. As to the sisters?

A. Yes, sir; brothers and sisters; it is all in the family.

Q. Her mother, too?

A. I didn't know her mother, nor her father; all I knew was Miss Thebault and the mother of Mr. Allore.

Q. What do you know yourself as to his mother; what do you know about the sister, for instance?

A. She would not express herself like a person of great knowledge; she was weak-minded, I recollect; not strictly, according to the definition of our books, imbecile; she was not exactly what you call imbecile, but weak-minded.

Q. In what way did she manifest this weak mind?

A. In her conversation when I went to treat her for disease; by many questions, I found out.

Q. How as to the brothers?

A. The brother was about the same. I had conversation with him, and Mr. Lafferty made some fun of him; always found out he would answer questions, but he was very ——

Q. You know this property Miss Thebault conveyed by this deed?

A. Yes, sir.

Q. In 1863, November, 1863, what would you consider that property was worth?

164 I believe property was selling down on the rear there at one hundred dollars a foot at that time.

Q. How many feet were there of this?

A. I suppose about a hundred feet, as near as I can recollect. I don't recollect for sure; I never measured the ground, only by assessment-roll.

Q. About what should you think it was worth? Give us your opinion as near as you can.

A. Some other persons could tell you better than I could.

Q. Do you know Levi Dolson?

A. I know she was offered from 5,000 to $7,000 before that, many years before; I should think the property would have been worth from $10,000 to $15,000.

Q. Do you know Levi Dolson?

A. Yes, sir.

Q. Did you see him in the month of November before this purchase, before this deed was given?

A. Yes, sir; I think so.

Q. Have a conversation with him?

A. Yes, sir; I think I had.

Q. Do you know who he was acting for, whose agent he was; did he tell you?

A. No, but I always knew he was employed by Governor Jewell.

Q. In the fall of 1863, November, before this purchase, you had an interview; where was this interview, at whose house?

165 I believe it was in the commencement of my attending Miss Thebault.

Q. It was at her house?

Pretty near her house; I think it was on the sidewalk.

What did she say to you?

(Objection made to anything Dolson said to him.)

Mr. MEDDAUGH. My objection is that is does not appear in this case that Mr. Dolson is the agent of Governor Jewell with respect to this property.

(Testimony taken subject to objection.)

Q. You had a conversation near her house?

A. Yes, sir.

Q. What was said by Dolson to you in respect to this property, in regard to who he was acting for?

A. I believe the first question was, he asked me how Miss Thebault was; if she was going to live through that disease. I answered Mr. Dolson, I believe—I recollect pretty well—that I thought that would be her last sickness; that I did not think she would recover from that.

Q. Do you know whether Dolson at this time knew you were her physician and were attending her; did you tell him so?

A. I told him I was.

Q. Go on; what did you then say?

A. I believe he mentioned something about trying to buy the property.

Q. Who for?

A. Gov. Jewell.

166 Q. Give me, as near as you can, just what he said about it.

A. I think he said they had been trying to buy the property before, and he stated they would now buy from her, and it was to her advantage; and that is all, I believe; something like that—some few words to that effect.

Q. You said this was in November; fix it as near as you can. What part of Nov., 1863, was the conversation?

A. It was the beginning of November.

Q. Give as near the date as you can.

A. I don't know but it was the 6th or 7th.

Q. Did you make any reply; was anything said by you to him about her mental condition?

A. Yes, sir; I recollect very well. I told him I did not know the conditions; what he was going to do; in what manner she was going to sell; but I told him—I recollect that perfectly well—that her condition was such that she could not live through the attack she was laboring under.

Q. Was anything said to you by him about her mental capacity to do business, to understand business?

A. We had many conversations about her.

Q. About this time?

A. I said we used to call her crazy.

Q. About this time was anything said by you when he said he was going to try and get it, and you told him she would not live; was anything said by you then to him about her mental capacity?

A. I believe Mr. Dolson was well aware——

Q. Was anything said by you to him?

167 A. I believe there was. I am trying to recollect. I believe I told him she was not in a condition, or was not able to sell or make any sale of the property in a right way.

Q. What did Dolson reply to that?

A. I don't know. I don't recollect his answer, because I was going into the house at that time—when I had that conversation with him. That was on the sidewalk. But as to his answer back again I don't exactly recollect now.

Q. Let me refresh your mind: Was anything said in that conversation about a priest?

A. There was.

Q. What was it?

A. I believe it was in that conversation and another conversation we had in the house. I was trying all the while to have a priest. I knew she was a Catholic; and to have a priest for her. And she did not want to have a priest in there to take the last sacrament, because as soon as she would do that she was sure to die. And I went to the priest.

Did you tell Mr. Dolson this?

A. Yes. I asked Dolson to try to interfere with her. Says I, You know she is a Catholic; and, says I, you try to convince her; and he tried, but she made the same reply, she won't do it, because when she takes the last sacrament she will have to die.

Q. Did she say he had been talking with her?

168 A. Yes, sir.

Q. Was anything said in that conversation by Dolson himself as to her being crazy?

A. I believe not only then, but he told me many times.

Q. I am talking about that conversation when you told him she was not in a condition to do business; did he say anything about her being crazy?

A. Him and I talked together; we always considered her insane.

Q. Did Dolson give you his opinion as to whether he was crazy or not—what he thought about her mental condition?

A. The interview I had on the sidewalk or the one inside the house?

Q. Either of them. Did he say whether he thought she was crazy and fit to do business?

A. I believe he said something: She better dispose of her property some way or other and have somebody to take care of her; and she better sell her property; that she was fool enough not to do it, and ought to do it.

Q. Did he say anything about his opinion?

A. And I believe he said she ought to sell, to relieve herself of her wants.

Q. Did Dolson at either of these interviews when he told you he was trying to bargain with Jewell for this property, did he say anything about what his opinion of her was?

A. I believe he did.

Q. What was it?

169 I think he did say in French she was "fal." We were talking in French.

Q. Give it in English now.

A. She was crazy.

Q. He said he thought so?

A. Yes, sir.

Q. What did he say he thought about her competency to do business at that time?

A. He did not care about that, but he thought it was best for her to sell.

Q. When you told Dolson you did not think she was competent to understand business—when he told you he was trying to get this deed, what reply did he make?

A. He said it was better for her to sell the property.

Cross-examination:

Q. You say Mr. Dolson told you at the time you had this interview with him early in November, either on the sidewalk or in the house, that he thought she was crazy?

A. Yes, sir; something like that, in French—that she was "fal," foolish.

Q. Was not the conversation which you had with Mr. Dolson on the sidewalk, after the deed was made?

A. I believe I had a conversation with about that after she made the deed.

Q. Did you have two with him?

A. I had many.

Q. About that mattter?

A. I had many conversations with Mr. Dolson. I could not say
170 them all. I was in the house many a time when Mr. Dolson was there with her taking care of things, and giving orders to a man that was taking care of things in the house, and many days I spoke to him, and after her death I was in the house with Mr. Dolson.

Q. What has been your business.

A. I recollect when I first commenced attending Miss Thebault. That is the time when Mr. Dolson asked me about the state of her desease and what I thought it was a few days after I commenced; and by my book I can refer to the 4th of November that I commenced to treat her.

Q. What has been your business the last 10 or 15 years?

A. Medicine always.

Q. Done any other business?

A. No, sir.

Q. Sometimes?

Yes, sir; in the town of Springwells.

Q. Have you taken any interest in this case since it was commenced?

A. Not at all that I know of.

Q. Talk with any of the witnesses since this suit was commenced about her condition?

A. Yes, sir.

Q. Have you been to see witnesses about her condition and talk about her?

A. I did talk with a great many of them.

Q. Have you been to see witnesses for Allore and to talk with them, to hear what they would say?

A. Not exactly; but Naggs, I believe ——

Q. Have you not been to see witnesses?

171 A. Came to converse, to know if I knew anybody.

(Question repeated.)

A. I went with Naggs, at his request; he wanted to know what remed——

Q. Haven't you been to see quite a number of persons to see what they would say?

A. I can't tell, but I think I did; I am sure I did.

A. I recollect perfectly well I went to Mr.——

Q. Been to see others?

A. I went to Mr. H——

Q. Taken considerable interest in the suit?

A. No, sir. Just as Mr. Naggs asked me to do it for him, & I went.

Q. You have been a practising physician in this city?

A. Yes, sir.

Q. Attended Miss Thebault as her physician ever since you have been here?

A. Yes, sir.

And have seen her from two to three times a week, off and on?

A. Yes, sir.

Q. What have been your habits during this time with respect to the use of intoxicating liquors?

A. I have been drunk once in a while.

Q. Haven't you drunk a good deal the last 20 years, so that you have been almost a common drunkard.

A. This is not the time to ask me that, because since '55, in the fall, until I was—for 13 years I did not drink a drop of liquor nor beer,
172 cider nor wine, nor any intoxicating liquor.

Q. From what year?

A. From 1856.

Q. To what time?

A. It was over a year before my poor wife died. I had left off drinking altogether in 1856, and never touched liquor from that time until I commenced trying to run for the office of county auditor, and with my friends I commenced drinking a little. But I did not drink for a long while. Like a great many other gentlemen, I drink for sometimes a day and a night, and then I am sick. But I have been 3 mos. without a single glass either of wine or beer.

Q. Haven't you been drunk week after week during these last 15 yrs.?

A. Never.

Q. Haven't you been picked out of the gutter perfectly drunk and besotted?

A. Never have.

Q. At the time you went to Miss Thebault's to see those lights, weren't you drunk?

A. I believe not. No, sir; I was not.

Q. Did you ever see any lights yourself?

A. No, sir; not of that sort.

Q. Ever see any spooks?

A. No, sir; I believe not; I am not afraid of them anyhow.

Q. You say you have not a diploma?

A. No, sir.

Q. A graduate of no medical institution?

A. No, sir; I didn't graduate.

Q. You read medicine four years?

173 A. Yes, sir; I have my certificates of my studies, but I have no diploma.

Q. Do you belong to any of the medical societies here?

A. I never did.

Q. To any of them?

A. No, sir.

Q. Ever been recognized as a member of them as a standing physician?

A. I don't know, but I have been called with many of the best physicians; I have been called with Dr. Pitcher, and sometimes with Dr. Clarck and Dr. Prithe.

Q. Was Dr. Pitcher called with you?

A. Yes, sir; to go to Dearborn with him.

Q. When was that?

A. I don't recollect, but I know Dr. Living was sick, and Dr. Pitcher was with a woman who was in child-bed; and Dr. Pitcher was with me

that night, and he says you had better come with me and see Dr. Livings.

Q. Has he ever called you upon any other occasion?

A. I don't recollect; he might speak with me on many subjects, many diseases, &c.

Q. Dr. Clarck called you sometimes with him?

A. No, sir; but I had many conversations with him.

Q. He might have many consultations with him?

A. I think he might consult with me too. I believe I have found out the means of curing some diseases. The first was about hydrophobia and small-pox, to prevent the small-pox from spreading all over. It is to vaccinate any person that is infected with the natural pox;
174 if you do you could save your life by it. I have two cases I can bring to the laughing gentlemen here; and I was telling Dr. Pitcher about that.

Q. Come down to the matter of this woman's talking rapidly; do you think that is an evidence of insanity?

A. One symptom.

Q. Let us come down to the question of rapid talking; is that one evidence of insanity?

A. Not alone.

Q. Is it an evidence of insanity that persons gesture quick?

A. It is.

Q. If they speak quick and gesture quick?

A. That does not constitute all.

Q. Is it evidence of insanity for a woman to dress uncomfortably thin in cold weather?

A. That is one trait.

Q. Suppose she is poor and can't buy any clothes, what would you say then?

A. If she has winter clothes she ought to put them on in winter, and summer clothes in summer.

Q. Suppose she wears them all the year around?

A. She would wear the winter clothes in summer and the summer clothes in winter.

Q. You say this is a symptom of insanity?

A. That is a part.

Q. You say she didn't talk coherently?

A. No, sir, not quite; she was on the border sometimes.

Q. She talked coherently about her prospects always?

A. Yes, sir; on many subjects.

Q. Was she a woman of any education?

A. I believe she had some; she could read and write.

175 Q. And she was perfectly coherent when she talked about her property?

A. I believe so; yes, sir.

Q. If she was perfectly coherent when she talked about her property, seemed to have her mind gathered for work when she spoke of her property, and she was a woman that could read and write, do you mean to say that she would not understand an ordinary deed which provided that the property was conveyed by her to another, and that other was to pay her $500 a year while she lived—do you mean to say that she would not understand it?

A. She would not under the circumstances at the time.

Q. How do you know she would not?

A. On account of the weakness of the mind; her mind as it was weakened was very weak at the time.

Q. You commenced attending her in November?
A. Yes, sir; I had attended her before that over a year.
Q. You commenced treating her for the desease of which she died in November?
A. Yes, sir.
Q. Any person else attend her during that time?
A. I believe they did call on Dr. Pitcher.
Q. How many times did the Dr. go to see her?
A. I don't know.
Q. Wasn't he her regular physician from the time she was taken sick in November until she died?
A. No, sir; I was there the last physician on her death-bed, about one hour before she died.

Q. How long did they visit her in November? Did you visit
176 her in the month of December at all?

A. Yes, sir.
Q. Prescribe for her?
A. Yes, sir.
Q. Wasn't she taking the prescriptions of Dr. Pitcher?
A. She showed my remedies to Dr. Pitcher, and he told her to go along with the remedies she had; and I believe she made the remark in December that she didn't like Dr. Pitcher, but they wanted him because they were obliged to pay for the Drs.; but, she says, I should prefer you. A few days after Dr. Pitcher prescribed she sent for me.
Q. Do you know whether Dr. Pitcher attended her all the time or not?
A. No, sir; I am sure Dr. Pitcher did not attend her—only gave her a prescription or two.
Q. During the month of December didn't he attend her?
A. No, sir; I believe not. We had one or two visits to my knowledge, and that is all I know of.
Q. Did you have any talk with Dr. Pitcher about her?
A. I believe I have.
Q. Have any conversation with him?
A. No, sir.
Q. In connection with her?
A. No, sir.
Q. Before she was taken sick could she have understood a deed of the kind I have named to you?
A. I believe not.
Q. Did you ever hear her try to read anything and fail to understand it?

177 A. Ten minutes after she would change her mind.

Q. Did you ever know of her try to read anything and fail to understand it?
A. I don't remember anything of the kind.
Q. Did you ever hear her try to read anything?
A. No, sir; some books sometimes.
Q. Did she read them?
A. I believe she did.
Q. What kind of books were they?
A. She had one book and a dream-book that I had.
Q. You say you found that after she died; what do you know about her using it, when alive, in your presence?
A. I don't know, but I recollect one she had one day she was reading.
Q. What was that?

I don't recollect the name of the book; I had seen it in her hand.

Q. French book?

A. I forget the name of the other book she had; she used to lock it up; she used to lock up that book and let nobody see it, and many people that had been living with her tried to get that book, and I was trying, but she would never let me know where it was or read that book; but I don't know the name.

Q. You don't know anything about—you never had any practical experience with her in trying to have her understand writing & reading?

A. No.

178 You merely judge from what you saw of her capacity as manifested in her conduct, what you saw of her as your opinion of her capacity to understand.

A. Partial insanity is not understanding so much in words.

Q. You have stated you don't think she could understand such an instrument?

A. Yes, sir; because she was partially insane and could not understand what she was doing.

Q. What degree of insanity has got to be labored under to call them insane?

A. As to the degree I can't say.

Q. Was she ½, ⅔, or ¼ insane?

A. She was laboring under one class of partial insanity, and that is the class that I mention with illusion; that is to say, they are partially insane; known by her conduct, her manner; her gestures and her whole manner of existence are extraordinary and not like those of sane persons, and that she was working under illusion. That forms one class.

Q. That is the class to which she belonged?

A. Yes, sir; according to my notions.

Isn't it a fact that people laboring under that class of insanity, that is, subject to illusions, when you get them outside of things with respect to which they are suffering, or have other illusions of insanity—

179 isn't it a fact that with respect to other matters they would be entirely clear-headed and understood perfectly? Answer my question yes or no.

A. I won't answer yes or no.

COURT. Q. Whether they may not be clear-headed?

A. They are not.

Q. Is that opinion the result of your opinion, or do you find it on the books?

A. It is my own experience in that case and other cases.

Q. Do you find that theory laid down in the books in reference to insanity?

A. I don't recollect whether I did read it that way in the books, but I know it is in my mind that way, my view of the subject, and I think I have read it besides.

Q. In what book did you read it?

A. Several.

Q. State the one in which you found that theory laid down.

A. I believe there is Mr. Fovay, Binnell, and Esceralls, and some others that speak about this insanity.

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181 Mrs. ELIZABETH SUTTON sworn for complainant.
Examined by Mr. Cheever:

Q. Where do you reside?
A. Fort street.
Q. You are the wife of James N. Sutton?
A. Yes, sir.
Q. How long have you resided in Detroit?
A. Forty years.
Q. Did you know Mrs. Maria Thebault in her life-time?
A. Yes, sir.
Q. How long had you known her?
A. Ever since '32. I came to Detroit in 1832.
Q. How intimately had you been acquainted with her during any of the time?
A. Since 1848. We moved down the river into the Thompson House, nearly opposite where she lived, April, '48.
Q. How long did you reside there?
A. We lived there 18 months before we moved, then on Fort street, where we now reside.
Q. How far were you from her when you lived on Fort street?
A. A little over two blocks; we are nearly opposite Eleventh street; it is called the corner of 11th, and she resided between 12th & 13th.
Q. For the time you were there she was very intimate with you?
A. Yes, sir.
Q. Was that the beginning of the intimate acquaintance?
A. Yes, sir.
Q. How intimate were you from that time till the fall of 1849?
182 A. Sometimes she would be over two or three times a day.
Q. During that time state what you know as to her physical condition, as to being healthy & well, or weak and feeble.
A. Sometimes she enjoyed tolerably good health, then again she would be rather miserable.
Q. After you left there and moved up where you now reside, how often did you see her?
A. Sometimes she would come every day, and then sometimes it would be a week.
Q. Up to what time did this acquaintance continue?
A. Until she was taken sick and unable to come out.
Q. How long was that before her death?
A. Not but a few months, perhaps two or three; not over three months.
Q. Did you see her after that sickness?
A. No, sir; I did not.
Up to the time you last saw her, two or three months before her death, what was her physical condition?
A. Not good.
Q. What do you mean by not good?
A. I didn't consider her in her right mind.
Q. I am talking of her physical condition first, the condition of her body?
A. She was not healthy.
Q. As to her mental condition, and give, if you please, any instances and as near the time when they happened, instances which developed the state of her mind as to what she said & did?
A. Often when she would come up to church in the morning, she would stop at my house on her return home and ask me for a cup

183 of coffee and something to eat. I would generally go and get it for her, and sometimes she would come out into the kitchen and commence dancing and acting very unbecoming her, and I would say to her, "Thebault, you must not act so in my house; I cannot have you act so before my children." She would say, "Very good, Ma'am Sutton; forgive me for this time and I won't do so again."

Q. How many times has she done that?

A. Perhaps twice; and she would make her hands go, and she would say, "Wait and I will go and get my fiddle," (witness illustrating with her hands.)

Q. In what way?

A. As if she was playing the violin, and she would act very unbecomingly for a woman, and I would often reprove her, and she would say, "Very good, Ma'am Sutton; excuse me this time and I will not do so again." I would tell her that would do; I would forgive her that time.

Q. What other occasion can you mention?

A. A great many things that would not be becoming to mention.

Q. Indecent actions?

A. Yes, sir; vulgar.

Q. Before the family?

A. Yes, sir.

Q. How many times has she been indecent and vulgar in your house?

184 A. A great many times, and the last time she was there she wanted to have me say that I would take her into my family and keep her. "No; I would have to consult my husband first," and I knew she would not be a person I would have about my house.

Q. Up to what time before she was taken sick did this strange, vulgar, and indecent conduct & dancing continue?

A. For some time.

Q. I mean how lately, just before she was taken sick—continue up to the time she was taken sick?

A. Yes, sir.

Q. For how many years, take the whole of it?

A. The latter part of her life she was inclined to be more vulgar.

Q. It increased?

A. It increased on her.

Q. From 1848 until she died did it continue?

A. Yes, sir.

Q. And increased towards the last?

A. Yes, sir.

Q. How did she talk?

A. Her mind would run from one thing to another.

Q. Give us some instances.

A. She would commence talking about her property, about various things; her mind would run off on to something else; perhaps she would not finish the sentence before her mind was off on something else.

Q. Leave the sentence unfinished?

A. Yes, sir.

185 Q. Anything said as to her property that you recollect distinctly?

A. Yes, sir; she told me Felkie had offered her $7,000 for her two lots, and says, "Madame Sutton, would you take it?" Says I, "No, your lots are worth more than that." Says I, "Business is coming down to this end of the city, and lots in the neighborhood are going to be valuable." Says I, "When you get $10,000 for your two lots take it and you can put your money out at interest, and you can live a great

deal better than you are now living." She said, "When I sell them I will let you know."

Q. Did you ever have any conversation with her about Mr. Dolson?

A. No, sir.

Q. Anything ever said by her relative to her future—providing for the future?

A. No, sir.

Q. Can you give any illustrations of her talk in reference to the conduct of individuals, what was said about them?

A. She made very queer remarks sometimes.

Q. Give us some instances.

A. She would scold people, and call them beggars, and say they pretended to be pretty good Christians, but they are beggars. Said she, "Look at them tell about their religion, and all that, but they are nothing but sly devils."

Q. Mention names?

A. Yes, sir.

Q. Ever hear her speak of those persons by name?

186 A. No, sir; there were a few she seemed to be very bitter against.

Q. Speak about Dr. Truedell?

A. Yes, sir; always spoke well of him.

Q. Never heard her speak against him?

A. No, sir.

Q. Ever hear her speak of old Burdens?

A. I don't recollect that I ever did.

Q. Can you give any other instances of her strange conduct than what you have given?

A. She was such an eccentric person I always tried to banish her from my mind and not to think of her.

Q. You don't recollect any other you can definitely give? Did you notice anything peculiar in her dress, whether she dressed appropriate to the season or not?

A. She did not; she did not wear comfortable clothing in winter.

Q. What would she wear in winter?

A. She would wear a thin cotton dress, and she had been to my brother's to borrow a shawl to go to church with. I have lent her shawls.

Q. What would she wear in warm weather?

A. She made but very little difference in her clothing. She was never clad comfortably.

Q. What do you know about her carrying an umbrella?

A. She almost invariably carried an umbrella, and wore an old-fashioned straw hat, some sixty years ago it might have been made, and an old green ribbon put straight over the top of it.

187 I want to call your attention to a deed which is set up in the bill, deed made on the 24th of November, '63, four or five months before she died, where she deeds this property to Mr. Jewell in consideration of $500 a year to be paid by him in semi-annual payments of $250, a deed of some length for this annuity, and also physician's bills, medical attendance, and taxes for the year 1863, which was the year before this was conveyed, etc. Now, what is your opinion of her mental capacity at this time, judging from all you knew of her, her mental capacity to understand such a deed or instrument as that?

A. I don't think she was capable of transacting business of that kind.

Cross-examined by Mr. Meddaugh:

Q. Do you speak the French language?

A. No, sir.
Q. How well did she speak English?
A. Pretty good.
Q. So that you had no difficulty in understanding her?
A. No, sir.
Q. Do you know whether she could write or read the English language?
A. She could, I think, read and write, I think both, in English.
Q. Did you ever hear her read?
A. Yes, sir.
188 Q. What in?
A. In her prayer-book; she used often to bring her prayer-book and read prayers to me out of it.
Q. That was in French.
A. Yes, sir.
Q. You never saw her try to read English?
A. No, sir.
Q. At the time you told her she had better hold her property until she could get $10,000 for it, what did she say?
A. She said, "Madam Sutton, when I sell my property I will let you know." Says she, "I won't sell it unless you tell me it is right." She always claimed to have a good deal of confidence in me, although I reproved and scolded her like a child.
Q. You said she had been offered $7,000.
A. Yes, sir.
Q. Did she say he offered to pay it in cash?
A. She said, "Yes." Said I, "When he will give you $10,000 for the property do it." Says I, "The interest of the money will more than support you."
Q. You said she was a very eccentric individual.
A. Yes, sir.
Q. When did you first know her and see her?
A. I have known her for the last 40 years; known her by sight, but was not intimately acquainted with her until we moved down the river.
Q. Know the balance of her family?
A. No, sir; I never knew any of the family but her.
Q. How often was she at your house after you moved where you are now?
189 A. Sometimes twice a day; then sometimes she would be absent two or three days; and she used to come by fits. Sometimes she would run over every day, and sometimes two or three times a day, and then she would stay away.
Q. When was this? What length of time did this cover, her visits to your house?
A. From the time we moved from the Thompson place to where we now live.
Q. Commenced when you moved there and continued till she died?
A. Yes, sir.
Q. While you lived in the Thompson place you lived opposite?
A. Yes, sir.
Q. And she was intimate then?
A. Yes, sir; she used to come for a cup of milk. We kept cows. She would say, "I want some fresh milk;" and I would say, "Yes, you can have it always when you want it."
Q. She continued that intimacy?
A. Yes, sir.

Q. And was very intimate after you moved?

A. Yes, sir; made herself perfectly at home; and she would call me her sister. I said, "No, not exactly a sister, but a friend."

Q. You treated her very kindly?

A. Yes, sir; and she would then say, "You are my sister;" then I would say, "Oh, no, Madam Thebault; only a friend."

190 Redirect examination:

Q. Are you acquainted with the family?

A. No, sir.

Q. Know who they were?

A. No, sir; none of the family; none of her relatives but herself.

Q. The winter she lived across from you, whether she lived a good deal secluded by herself?

A. Yes, sir.

Q. Anybody live with her?

A. Sometimes she would have a family occupying the lower part of her house, and she would occupy the upper part.

Q. How long did you say you knew her in all?

A. I have known her ever since I have been in Michigan—64 years.

Q. In early life state whether she was neat or trim in her appearance.

A. She was not very neat.

Q. What was her condition towards the last of her life as to being dirty, filthy, and having vermin, &c.?

A. She was not very neat in her person, never; but towards the latter part of her life I thought she grew very slack. I never was in her house but very few times. She used to often say, "Why, Ma'am Sutton, why don't you come over and see me?" I told her my time was too much occupied with my little family at home.

Q. Do you know what is the fact as to her having vermin?

A. I heard it was the case; I could not say anything about it.

191 Mrs. JULIAN CUVYENN sworn for complainant.

Q. By Mr. Cheever:

Q. Where do you reside?

A. I live between 11th & 12th streets.

Q. How long have you resided there?

A. In that same place, 28 y'rs, going on 29.

Q. You knew Miss Thebault?

A. Yes, sir; for 30 years.

Q. How near did you reside to her?

A. She was living on the other side of the street, and we lived on this side; about a block and a half.

Q. How far was her house from yours?

A. About a block and a half; we lived between 11th & 12th, and she between 12 & 13th.

Did you used to see her very often?

A. Yes, sir; very often, for the first time we were living there, and generally all the time, except for about six months before she died; I did not have much conversation with her.

Q. Before that you saw her?

A. Very often; every week. Still, I did not talk to her every day. Very often she came to our house and stayed a few minutes.

Q. About how often did she come?

A. Sometimes she would come oftener than others; I cannot remember exactly the time.

Q. You saw her sometimes every week, you say?
A. Yes, sir; sometimes every week.
Q. Were you at her house occasionally?
A. I have been at her house, I suppose, 20 times, because my folks used to live with her.

192 I want you to state some of her characteristics; what sort of a person she was; how she appeared.

A. She did not appear to be—she talked like—I don't to talk impolite, but I have to—she talked like an old fool. Sometimes she would talk on one thing and jump on another story like that. I never used to talk much to her; I did not like it; I did not pay much attention to her.

Q. Did she talk much on one subject, or change around?
A. Not very long. Sometimes she would come to me and say, "Mrs. Cuvyenn, I feel lonely; I come to see you." "Well," I says, "all right." Says she, "I want you to tell me some story about the ghosts." I would say, "I never saw any; I don't know any story like that." Says she, "You must know some," Said I, "I did not." Then she would commence to talk about other things; all such foolish talk all the time, and talk with the children and abuse them.
Q. State whether you ever saw her dancing around the room or playing the fiddle.
A. I never did see that. I saw her passing very often with an umbrella in the winter when there was neither rain or snow.
Q. Spread over her head?
A. O, yes.
Q. How was she dressed?
A. She was dressed like an old fool; no decent clothes.
Q. How as to warmth?

A. In the winter weather I said, "Miss Thebault, are you go-
193 ing to freeze yourself?" "No," she said, "I am not cold." She was so I would not like to go out two steps, and she was right in the street going to church or somewheres.

Q. In the summer time, in hot weather, how did she dress?
A. Just as she took a notion.
Q. Did you see her frequently with this umbrella over her head?
A. Yes, sir; she always had it with her, good weather or bad weather, it didn't make any difference.
Q. How did she appear during the latter part of her life as compared with the earlier part?
A. She didn't seem to change; well, the way I can say, she always was the same thing; she always was very cunning all the time; and then she begin to talk to me sometimes about the property, and she says somebody want to buy the property, but we better not sell, because by and by we will have it covered with gold, and I never going to sell it until I have my price for it.
Q. Do you recollect her making these remarks about her property along the last year of her life?
A. I think it was about probably a year, or a little more or less, I don't know; I used to talk to her and ask her why she did not sell or give it to some man for her, because, I say, you are abusing yourself fixing up fences and chopping wood, when you have not got occasion to live so, because you can live like somebody. Says she, "I won't let them have it; they will abuse me, and you know very well I
194 have got a nephew, and he will have it when I be dead."

Q. Did you hear her speak of this nephew at other times?

A. Yes; three or four times; the last time I talked with her, I say, "Why don't you go with your nephew and stop there?" Says she, "I don't agree with the young folks, and they will destroy my fences and trees, and they will not have anything, nor me either, and they will have it later, afterward."

Q. You were in her house, I suppose, sometimes in the winter weather?

A. Yes, sir; I saw her picking little wet chips, and no fire at all.

Q. What kind of provision did she make for heating the room?

A. She was miserable; I did not see any person treat herself like she did; I could not live; I do not know how she could support herself with the food she gave herself.

Q. What did she have on her table; what did she live on?

A. Sometimes very poor butter, some little tea and hard bread, and a little tea in a little bit of teapot, and little dishes, no table-cloths, no nothing; I was there two or three times, because I never came to her house much after my folks moved, because I did not like to.

Q. How long was that before she died?

A. A couple of years before she died.

Q. Who are your folks you speak of?

A. It was my sister.

Q. Lived in the same house?

A. Yes, sir; sometimes they were living in the same house.

Q. The same house with Miss Thebault?

195 A. Yes, sir; she was living up-stairs in a little room, and my folks were living down-stairs.

Q. Do you know anything about her having money—whether she had money or not?

A. She told me she never had money; she said she was kind of begging around; she often asked for a meal at one house and another.

Q. Did she get meals at your house?

A. Yes; a couple of times, or so.

Q. Do you know of her begging for provisions about?

A. She begged for meals like that.

Q. Did not carry her basket around to get meals?

A. No, sir.

Q. I would like to ask you whether from all you saw of her and knew of her during those years whether she was capable in her head to deed away her property, whether she could understand a transaction of that kind?

A. No, sir; I can't think she was.

Q. How did she talk about business?

A. She never talked much about business, except what I told you about selling the property.

Q. What kind of sense did she have when talking about the property?

A. She would say, "Mrs. Cuvyenn, don't sell; by and by you will have it covered with gold. That is the way I am going to stand."

Q. Did she talk about it right along?

A. She would jump on another subject right away. I did not take any notice of her talking; she changed the subject.

196 Q. Do you think she had her right mind?

A. I don't think she had the right mind, the way everybody talked about her. When she was living last, I did not see her because I did not know she was sick in bed until a few hours before she died; and I ran to see her, and she was gone.

Q. What was the state of her health?

A. Pretty miserable.

Q. Was she then run down, weak?

A. Yes, sir; run down, and so weak she could hardly stand; sometimes she was pretty miserable.

Q. During the winter of 1863, (she died Feb'y, '69,) during the fall previous?

A. She was sick a good while; she was not in bed; she could not take the bed; she was pretty miserable a couple of years before she was sick.

Cross-ex.:

Q. You talked with her about selling her property; you advised her to sell?

A. I told her not exactly to sell; I told her why she did not do something, so that she could live comfortable. And says she, "I am not going to have anybody abuse me as long as I live." That is what she told me.

Q. I understand you to say you advised her to sell it, and that she said she would keep it, and that her nephew would have it when she died, &c.?

A. Yes, sir; she says, "I got a nephew, and he will have it when I be dead."

Q. Why did she say she would not sell it?

197 A. She did not say she would not sell it. Says she, she would sell it if she has her price. "I will have to have my own price; and I tell you," says she, "I am not going to sell it for a small price."

Q. Do you think that manifested a want of sense on her part?

I don't know; sometimes I think they offered as much as the property was worth, and she said she would not take it.

Q. She said she wanted to keep it?

A. And have more.

Q. And when she died her nephew would have it?

A. Yes, sir; says she, "If I keep it longer I will have more for it."

Q. She said she could not live with these young folks?

A. No; she said she did not like to live with these young folks. Says she, "They would not agree with her."

LOUISA CUSON sworn for complt.:

Q. Where do you reside?

A. I reside on the corner of 12 & Woodbridge st.

Q. How long have you lived there?

A. 18 yrs.

Q. How long have you lived in Detroit?

A. 24 yrs.

Q. You knew Miss Thebault?

A. I knew her 23 years ago; became acquainted with her then.

Q. From that time up to the time of her death?

A. There were five years I resided in the city on Griswold street, and I did not see her a great deal then, but after that I saw her every day for 15 years; every day she came to my house.

Q. How near did you reside to her at that time?

198 Nearly opposite.

Q. How long were you here on Griswold st.?

A. I think it was 6 years.

Q. That is to be taken out of the 24?

A. Yes, sir.

Q. Did you see her occasionally during the six years?

A. Yes, sir; occasionally.
Q. Where did you see her?
A. She came in to see us occasionally.
Q. What were those years you resided here; what time?
A. The fore part of the time I have lived here.
Q. Did you use to see her often?
A. Every day she would be at our house when she was well enough; I think she came in every day; she was most always well until the latter part.
Q. Just state in your own language how she appeared to act.
A. Some days she acted very rationally, and other days she did not; some days she was very foolish.
Q. Give some instances of her foolishness, her foolish talking, &c.; anything you happen to think of; you may state to us what sort of a woman she was.
A. Some days she would come in and say to me, "I want a meal of victuals; I want to have a meal with you." I used to say, "Sit down, Miss Thebault," and after she got through she might abuse me, call me names, get angry at me for something or other. If my children did not behave to suit her she would abuse them and call them names,
199 and other times she would treat us well.
Q. Did this occur frequently?
A. Yes, sir; most every time she came in.
Q. How did she talk; what kind of language did she use?
A. I would not like to mention the words she used sometimes.
Q. Did she use vulgar language?
A. I' was vulgar.
Q. How was she in the latter part of her life, more so?
A. About the same to me. I don't know that she was more so. I will say to you that was very vulgar and foolish.
Q. What course did you take with her?
A. I used to be kind to her, because sometimes I was afraid of her. She was so angry I was afraid she would strike me, or something.
Q. Did she ever make any motions to strike you or the children?
A. She struck my daughter several times; she did not strike me.
Q. How old was your daughter?
A. When she did that she was about 9 yrs. old.
Q. Did you see her during the latter part of her life?
A. I have seen her several times when she was sick. I was there, and I took broth, and tea and coffee, and the other neighbors took things.
Q. What had she in the house?
A. I did not see anything at all.
Q. How was she supported during that time? Where did the provisions come from?
200 Every one that came there would take provisions to her.
Q. Did she live in that way all the time?
A. Yes, sir.
Q. How about fuel?
A. She used to use a little lard and a rag. I have often seen that, & seen a candle. I seen any oil. At the latter part, when she was sick, she had oil.
Q. Had she any fuel in the house?
A. Not any more than I saw at the latter part.
Q. Any wood?
A. Yes, sir. I saw a little wood at the latter part.

Q. Had she enough to make her comfortable?

A. She had, only she did not want to make any fire. Those sitting up with her, she would not let them do it.

Q. In winter?

A. Yes. The latter part. It was pretty cold then.

Q. How did you find the house?

A. It was pretty dirty.

Q. Was it cold, too; no fire in the house?

A. Yes. She did not allow them to have any fire. There was fire—some—but not enough. I could not stay there long.

Q. Was she living alone at the time?

A. Yes, sir.

Q. The house was very dirty?

A. Yes, sir. Cobwebs all over the ceiling.

Q. Do you know whether she had any one to take care of her?

201 A. No, sir; she did not have any one to take care of her that I know of. I offered to sweep a few days before she died. She would not allow me; she said, "You will get yourself all dirty."

Q. What other things do you think of in regard to her from what you saw of her conduct that you could illustrate how she acted?

A. Why, her conversation was such that you would not depend upon it for two hours. It would be so changed you would think she was another person talking.

Q. Change her voice?

A. No; I don't know as she did change her voice.

Q. Change from one subject to another?

A. Yes, sir.

Q. Would she talk very long on any one subject?

A. No, sir; never to me without she talked about seeing ghosts or things like that.

Q. What were the principal topics of conversation? About what did she allude to most frequently.

A. I can't tell you anything particularly about that; it was not anything sensible any time.

Q. State about those ghosts.

A. Well, various times she would say she saw my mother-in-law, and then she would say other persons appeared to her, and she used to mention how it was, and I would try to hush her up, and she would abuse me.

Q. Tell us all about what she would say.

A. She used to call me a fool, and I did not know anything; but if I was good I would see things like that, but I was not good enough.

202 Q. Use any profane and vulgar language?

A. Yes, sometimes.

Q. How often did she talk about ghosts?

A. I think every time she came in she would say something about them.

Q. Do you know anything about her reading books about ghosts?

A. I never saw the books, only she told me she had what she called German books.

Q. Talk about dreams also?

A. Yes, sir; always had something to say about dreams.

Q. How often did she talk about dreams?

A. As I said before, it was pretty nearly every time she came.

Q. Every day?

A. Yes, sir; there was not anything sensible for her to talk about.

Q. About her dress?

A. Her dress was always a calico, just enough to keep her warm, and she made her own shoes.

Q. Dress any warmer in cold weather than in warm weather?

A. No, sir; she never wore anything thicker in her life than a very small shawl that came to her waist; she used to wear a pasteboard bonnet, and carry an umbrella over her head.

Q. Ever see her carrying it when it was not stormy?

A. Yes, sir; she most always did that.

Q. Spread?

A. Yes; every way. She mostly made her own clothes and shoes.

Q. What kind of shoes?

203 A. Leather shoes, very coarse; not fit to be seen.

Q. Did you ever see her with wooden shoes on?

A. Yes, sir; she did wear wooden shoes in muddy weather; I have seen them.

Q. Do you know whether she made those?

A. No, sir; I don't think she could make those.

Q. These Indian shoes, were they just dug out?

A. Yes, sir.

Q. What did you say was the material of her dress generally?

Calico.

Q. Mere calico in winter time?

Yes; I never saw her wear anything else from the time I was married until she died.

Was she dressed any warmer in winter than summer?

A. No, sir; I know the shawl she used to wear in winter was very small, coming to her waist, and I never saw anything but a pasteboard bonnet.

Q. Winter and summer?

A. Yes sir.

Q. How many yrs. did she wear that shawl?

A. I never saw anything else. In summer, perhaps there was another, but it was the same colored black.

Q. How was she as to cleanliness of her person?

A. She was very dirty, very dirty indeed; anybody that seen her when she was dead could hardly go in, it was so filthy.

Q. Did you see her corpse?

A. Yes, sir.

204 Q. Notice any vermin?

A. Yes, sir; I seen it on her until I was frightened.

Q. Did you while she was alive?

A. Yes, sir; we wanted to clean her—the neighbors, but she would not allow us to do anything.

Q. You saw her all the fall and winter before she died?

A. Yes, sir; as long as she was able to come in and get a meal of victuals—a little broth or tea; she was a great eater, more than anybody I have ever seen.

Q. What was the state of her health during the last months of her life?

A. She was always pretty healthy; at the latter part she was not sick very long.

Q. She was so she went around outdoors?

A. Yes, sir; she went around; she was up one day; she was not able to stay up; she was very much bloated that day before she went out.

Q. How long was that before she died?
A. 8 or 9 days.
Q. In the fall, about 2 mos. before she died, she deeded away her property?
A. I don't know anything about that.
Q. She deeded it away to Gov. Jewell, and was to have $500 a year while lived. I want to ask you whether, from what you saw of her—whether you think she had sufficient mind and head to understand a business of that kind?
A. I don't think she had any head to do any business at any
205 time, because you could not depend upon her for 2 hours.
Q. Do you think she was competent to do business of that kind, or to understand business?
A. No, sir.

Cross-examination by Mr. Meddaugh:

Q. Who subpœn'ed you in this case?
A. Jewell.
Have you made any statement before you were subpœn'ed to anybody?
A. No, sir.
Q. Didn't you see this gent. before you were subpœnaed?
A. I saw him; but I told him I did not want to say anything about it.
Q. Didn't you say anything to him?
A. No, sir.
Q. Have you had any talk within the last 24 hours with anybody about this case?
A. What do you mean? No; I don't think I have.
Q. Have you talked with Naggs?
A. Yes, sir.
Q. Then you did talk?
A. He talked with me before.
Q. Was an affidavit presented to you before? Had you seen the testimony of Dr. Truedell before you came here?
A. I heard it read at my house last fall.
Were you not applied to make your affidavit at that time, and tell them you could not do it on that side?
206 Yes, sir; and I told them I could not be on this side either; but they called for me.
Q. You saw this young man (Bowen) before you were subpœnaed?
A. Yes, sir.
Q. You had a talk with him?
A. I did not talk with him; told him I did not have anything to do with it.
Q. When was it you saw him?
A. Last fall, I think.
Q. This young man here?
A. I don't know what time.
Q. How long ago?
A. I cannot tell you; I never saw him until he came to the house.
Q. Do you remember when he was there?

Q. Didn't you say to him that you saw her during her life-time, and that she was then sane?
A. No, sir; I did not.
Q. Didn't you tell him that you had heard her speak of her conveyance to Jewell, and expressed herself satisfied?

A. No, sir; I did not.
Q. And that she called Jewell her father in connection with this?
A. I can't say that.
Q. Didn't you tell him so?
A. She never spoke to me about Jewell in her life.
Q. Didn't you say so to him on that occasion?
A. I did not.
207 Q. Didn't you say that she showed you a dress which Jewell gave her, and told you that Jewell gave it to her?
A. I never saw anything of the kind.
Q. Didn't you tell him so?
A. No, sir; I couldn't tell him so.
Q. You say you did not, then?
A. Yes, sir.
Q. Didn't you say you did not think she was ever insane?
A. Why, no; because I always thought she was.
Q. Didn't you say at that time to him that you had heard her express her dislike for Allore?
A. No, sir.
Q. What is your name?
A. Cuson.
Q. What is your first name?
A. Eliza.
Q. Didn't you say O. Flynn came with a paper he wanted you to sign last fall; didn't you tell this young man so?
A. No, sir; I did not tell him so, because I didn't know anything about it.
Q. Wilkie Moore was with this young man?
A. Yes, sir.
Q. When they came to see you?
A. Yes, sir.
Q. That O. Flynn came with a paper he wanted you to sign to the effect you thought Miss Thebault was insane and you would not sign it. Didn't you tell him that?
A. No, sir. I told him I would not have anything to do with
208 it; that I told the other party I had nothing to do with an affair like that, and I told them so.
Q. You say she carried an umbrella?
A. Yes, sir.
Q. Always carried it spread?
A. The most of the time *I* carried it spread.
Q. When the weather was not bad?
A. Yes, sir.
Q. When the sun did not shine?
A. Yes, sir.

Redirect:

Q. Ever carry it up when the sun did shine?
A. Of course she carried it; most always had an umbrella.
Q. How generally did she have it spread?
A. I did not keep count of it; she most always had it spread when I saw her.
Q. Explain all the interviews you have had with any one, and all that has been done and said he has been catechising you about.
A. I told the young man I could not have anything to say about it. I told him some more. I even told him I was not acquainted with her,

and had nothing to say about her, because I did not want to be in court for any one.

Q. Was that your reason?

A. Yes. I did not want to appear in court. I did not take anybody's part, Mr. Jewell or Mr. Allore; what I tell about Miss Thebaults is what I saw about her.

209 Q. Instead of O'Flynn, you mean Mr. Flynn in our office. Did he have any paper written out he wanted you to put your name to or merely to write the questions he asked you?

A. That is all I know about her. She never told me she had even sold her property.

Q. You knew nothing about that?

A. No, sir; she never told me anything about that.

Q. Was that what you told him?

A. I could not tell him any different. I did not tell him anything.

Dr. TRUEDELL, (recalled.)

I would like to make an explanation of one part of my testimony in reference to the conversation with Dolson. The time I had a conversation with Dolson on the sidewalk in front of the house of Miss Thebault, I was telling him that she ought to have more to take care of her, &c. Well, he remarked to me that it was so; that they had been trying to buy from her; that she was fool enough, she would not sell. He wanted to buy for Jewell, as near as I can recollect.

Q. That conversation took place on the sidewalk?

A. Yes, sir; that was the conversation on the sidewalk I wanted to recollect. It came to my mind about five minutes after I went out of court. I was thinking about it, but I could not recollect exactly
210 as well at first as I did after.

Dr. G. P. ANDREWS sworn for compl't:

Q. You are a practising physician in the city?

A. Yes, sir.

Q. How long have you been a physician?

A. 10 y'rs.

Q. Most of that time in the city?

A. Altogether.

Q. In active and exclusive practice?

A. Yes, sir.

Q. You have persued a regular course of study?

A. Yes.

Q. You are a professor in the medical college here?

A. Yes, sir.

Q. In the course of your study and practice of medicine you have treated and investigated the subject of insanity in all its characteristics?

A. Yes, sir.

Q. And the symptoms of insanity?

A. Yes, sir.

Q. Will you state some of the symptoms of insanity—some of the general symptoms?

A. Among the most common are hallucination, where a person has incorrect ideas of common events, incoherent methods of talking and acting, strange ideas of dressing or in regard to eating; in fact, all the ends of life may be perverted in strange, unusual ways.

Q. Nervous in manner?

211 A. Yes, sir; subject to sudden starts. Their imagination is fertile in strange sights.

Q. Disconnected in thoughts?

A. That is one very marked sign.

Q. Go on and give them further.

A. They are as different as the cases; no two alike. Usually, in ordinary cases of insanity, generally has one particular bent; may be perfectly sane on every other point, but on some one thing he is all astray, and unless you happen to strike on that single point——

Q. Mention some bent.

A. I think one of the most common is in regard to property. It is not uncommon to see a man wealthy imagine he is poor, or they are about to lose all their property. That would rather come under the head of monomania, or insanity upon a single subject. And then in regard to religious topics. That is one of the most common; and frequently there are people who have always been of a religious tendency, professors of religion, perhaps, who have become exceedingly profane, or women of the most delicate sense of modesty and chastity will become horribly profane and foul-mouthed, vulgar.

Q. For a woman, a maiden woman, who always lived alone mostly, by herself, who had some property, who was reputed to have con-
312 siderable property, should develop the following symptoms: Suppose she was about 65 years of age. At nights she would be seeing ghosts, and be up and tramping around talking, and fighting, apparently, persons, whom she would call by name, who were dead; come at her, and she would call them, making violent motions; not seen, but apparently using some instrument, apparently by the noise; & if, when anything was said about it, she would start and run up stairs, run away and hide herself, when spoken to about that; & if they would tell their physician confidentially of seeing different individuals that were dead, in the night, and come and get their physician & have them go to the house in the night and see the lights in the night, & ask them if they could not see light all around, when the family physician could not see any—it would be perfectly dark; and seeing the ghosts of dead men in the day-time down on the plank walk close by, that she went out to get water on the river; & if she would be incoherent, or partly incoherent, bordering on incoherency of language in conversation, change her subject, be repeating; and if she would talk about property and selling it one day, and the next hour she would have an entirely different notion about it; one time she would want to do something about the property, and another time would be entirely different; and if she
313 asked a person to take her in banter about keeping her, and they would undertake to talk about it, she would turn around and curse her; if she would talk particularly against her neighbors, and call them scum Yankees and damned Yankees; was naturally modest, and become so obscene that people would turn her out of doors; and curse her priest and physician; and if she would be seen a mile away from her residence, in the coldest days in winter, with simply a cotton dress, no underclothes on, so that you could see her form, and with a large umbrella-spread over her head when there was no necessity for using it, when it was neither snowing nor raining and no sun; if she shut herself up in the house sometimes, & would keep herself shut up for days, and no one see her; if she was penurious and would starve herself; when she might have things she would not have them; claim no one could get rich in that way. If you should see a person of that character, who was so in all her latter years & months and days, and

gradually declined; who was known here to all her neighbors, and particularly to her own people, and would go to all her neighbors and talk to all her neighbors, gentlemen of the town, about giving herself away and they taking her property, and if they would undertake to enter into the details, she would fly and run and leave them, and the next
314 time they would see her she would not hear to anything about it; if you should see a person of that kind, to suppose a case of that kind, what would be your judgment as an expert with reference to their sanity or insanity?

A. What is her early history, her character? Was she a woman of cultivation?

Q. She was a woman of some education, could read and write English and French, as has been testified to, and there is a peculiar weakness of intellect in the family—that is, a certain eccentricity marked in reference to several members of the family immediate ancestors, brothers, and sisters, and I believe it has been testified of her mother.

A. Any consanguinity in her family?

Q. No such occurs in the testimony.

A. The symptoms would be very strong in favor of the idea of insanity. Almost any one of those you describe might come under the head of singularity, not necessarily indicating incapacity for business, but some of the symptoms I regard as indicative of insanity.

Q. Indicative of thorough insanity?

A. Yes, sir; such a person could not be regarded as sane, in my opinion.

Q. Have you seen any instances in the course of your practice of cases that showed symptoms of a similar character?

A. Yes, sir; decidedly so.

Q. And cases of insanity?

315 *Q. And cases of insanity?*

A. Yes, sir.

Q. Cases of decided insanity?

A. Decided. I know of one instance especially. It was a man that became insane when I was about 21—very similar.

Q. Would a person having the characteristics of the character described—would you consider them persons fit to do business of importance, execute deeds and convey their entire property?

A. No, I should not.

Cross-examination by Mr. Meddaugh:

Q. Let me suppose a little, because I am good at supposing; that is my best hold. We will suppose a French woman, of the old stock of French, whose general peculiarities you are acquainted with as a set; a woman of limited education, who could read and write the French language; did not understand English except as she picked it up, speaks it very poorly, indistinctly, had very little command of the English language, and we will suppose she is miserly in the extreme from the earliest period of her existence; she is not a strong-minded person by any means, not up to the average. The miserly disposition leads her to almost starve herself in order to save money; at all events deny herself the comforts of life, to dress poorly, so that she is clad out of
316 season; almost always suspicious, as such persons would naturally be, with respect to the designs of others; live upon her property; has a good deal of confidence in dreams, takes stock in them, keeps a dream-book and reads upon the subject; something of a lover of music;

learns to play the violin passibly well, and when she feels particularly well dances to her own music. Sometimes she carries an umbrella. That is one of her characteristics; almost always carries it. She takes it with her whether it rains or shines, and we will assume she don't put it up when there is no occasion for it, but knows enough to spread it when it rains; possibly puts it up to keep the sun off; lives alone; too mean in her disposition to entertain her near relatives with a meal of victuals; a person of that character. If I have described so that you understand, can you conceive of such a person & imagine they are entirely sane in the ordinary sense of the word insane; competent to understand the value of property, a person with those peculiarities capable of understanding the value of property, and of understanding the value of conveyances and the mode of dealing with it so as to deal with it safely? Can you understand a person of those peculiarities would possess that degree of capacity?

A. Yes, sir; often.

317 Q. Is it necessarily evidence of monomania that a person, no matter what their general peculiarities are, having dwelt on the subject of money until it becomes their god, it is evidence of monomania?

A. No; I do not think it would be so regarded always. There would be attending circumstances necessary, or indications, to link it with monomania.

Q. Is it not quite a common thing for people who are presumed to be entirely sane, supposed to be as a matter of fact, have a misty confidence in dreams?

A. Yes, sir.

Q. Haven't you seen that in people whose intelligence ought to be entirely above it?

A. Yes, sir.

Q. Is it not quite a common thing, also, to see people of intelligence believing in hobgoblins and ghosts, and the appearance of the departed from this earth?

A. Yes, sir.

Q. That covers my hypothetical case.

Re-direct:

Q. May a person not be insane, and still have a few only of these eccentricities and those alone; in other words may not a person be insane and yet not develop many of the symptoms of which I informed you?

A. A person may be insane and have all the symptoms he describes.

318 Q. As far as symptoms are concerned, may they not have all of these symptoms and still be insane?

A. Yes, sir; there are two cases. The case he describes would be only mental weakness. He does not describe an insane person, necessarily; you do.

Q. You think I describe an insane person?

A. You describe an insane person, and his would not necessarily be insane.

Q. And yet it could be?

A. Yes, sir; the points he brought forward might all exist in a person who was not sane. The hypothetical case you describe must be insanity, and his might be. There might be points he has not touched on, might not be apparent or brought out in testimony.

319 LEVI L. DOBSON sworn for complainant.

Examined by Mr. Robinson:

Q. What is your age?

A. Fifty-eight.

Q. How long have you lived in Detroit?

A. Detroit and vicinity, I have lived here since 1814.

Q. That is, 57 years?

A. Yes, sir.

Q. Most of your life-time?

A. Yes, sir.

Q. Did you use to know Miss Thebault that has been testified to?

A. Yes, sir.

Q. Know her family?

A. I knew her mother, brother, and two sisters; saw her mother and father.

Q. What was the character of the intellect of the mother of this woman?

A. I can't state much personally in reference to it.

Q. State what you can.

A. I have seen her; I recollect seeing her many times.

Q. Was she a person of strong mind?

A. When I saw her she was a very aged woman; must have been—well, I had seen her perhaps from twenty-nine until the time she died along in the thirty's. I had seen her different times; been in her house. She must have been, I should judge, a woman of some 84 years of age.

Q. At that time what was her characteristics mentally?

320 A. She appeared to be a very peculiar woman. The most I remember distinctly about the woman is eating by herself at a table in the corner of the house.

Q. Not eating with the family?

A. Not eating with the family, although that was rather a characteristic of the family.

Q. Of the family?

A. Yes, sir; at the time I speak of I think each of them ate at their own table.

Q. What would be the purpose?

A. I don't know exactly, but I think from what I heard at the time, the old gentleman when he died had left some money; about, if I recollect right, about 22, I should judge. I remember the old gentleman; he left some money, and I think there was some kind of a division made among the family, and each one, I think, supported their own table in the same room.

Q. What was the character of the intellect of the mother?

A. I could not tell you personally any more than hearsay—that is, anything that I really know; she appeared very old, very much dilapidated. In fact she was a very old, bowed-down woman, and conversed very little.

Q. As far as you know, state whether there was anything peculiar about her intellect; was she a woman of strong or weak intellect, or sane or insane?

321 A. That I can't tell, whether she was sane or insane; she was said to be a woman——

Q. Not what was said; state whether you have sufficient knowledge.

A. Really, I have not, to give conscienciously the testimony in reference to that. I have had a kind of opinion.

Q. You have an opinion, and some knowledge to base that opinion on? (Obj. to.)

Q. You have seen her often?

A. Yes, sir.

Q. (By the court.) Is that opinion based upon your own knowledge and opinion, or hearsay?

A. I think my opinion is based rather upon the statements of others than of what I saw myself.

Q. Haven't you an opinion of what you saw yourself?

A. I dare not; I have not; I can't say that conscienciously.

Q. Judging from what you saw, what were the characteristics of her mind; weak or strong?

A. From what I saw, being a person of that great age and decrepit, I should say the characteristics of her mind was rather weak or any other person of that age.

Q. Were her more than necessary for a person of that age?

A. I don't know. I remember, of course, very distinctly that she was very reticent; said but very little. I have known many people of such great age.

Q. Do you know anything about any of the other members of
322 the family of Miss Thebault?

A. Yes, sir; she had a brother who was a very peculiar-acting man; very much so.

Q. What was his intellect or character?

A. I don't think he was a very intellectual man.

Q. Strong or weak?

A. Weak.

Q. As a family, were they persons of eccentricities, weak intellects, or otherwise?

A. So far as my knowledge extends of the father——

Q. I am not speaking of the father; I mean the other members of the family.

A. No, excepting this Pettie Thebault; I always look upon him as being rather a weak intellect. The mother of Allore here is an ordinary woman. The father, we all know, is a splendid man.

WILLIAM H. LATHROP sworn for plff.

Q. You heard the question of the hypothetical case I put to Dr. Andrews?

A. It struck me that the question of motive in her action should come in pretty largely in forming the opinion of insanity, with regard to her penuriousness, whether that prevailed all through her conduct, or whether she did anything antagonistic.

Q. We will suppose it prevailed to that extent that she would not even provide clothes or the necessaries of life when she had money in the house or had property; that she would go out begging. Did
323 she ever do anything opposite to that? Sometimes an insane person is not likely to be governed by an insane motive. They like consistency.

Q. The penuriousness was a common, uniform thing to excess, run to an extreme, so that when she had means she would beg, and when she had clothing she would wear thin clothing and wear improper clothing. Consistent in all her views when money came in question, that was a characteristic all the way through; but in other characteristics she would be disconnected in all her other plans and thoughts and other charac-

teristics, and even in her conversation, stating a story, telling anything; that before she would finish the story she would break and run to anything else, and she would dance and catch hold of cats and dance, and sing to herself and mumble to herself, roll her eyes mysteriously, and sometimes would not talk loud above a whisper, and such like characteristics?

A. Yes, sir. I think those indicate an insane person, as you stated to Dr. Andrews that kind of a case.

Q. Insanity to what degree?

Sometimes people have peculiarities at certain times, but at the bottom of all that you see a great deal of sense. I think question would come in how often and how largely these characteristics prevailing in her conduct; whether that was her character or you noticed it only
324 occasionally.

Q. We will suppose a case with these characteristics of dress and penuriousness, of disconnected, broken conversation and broken ideas, and that the general characteristics of her prevailing sentiment. There are times when perhaps she would be in a different mood, sometimes mad, like raving, other times sad, desponding. Are these the characteristics of insanity?

A. When they prevail to a great extent; yes, sir. They make a person unfit to do business or to carry on the ordinary business of life. We don't regard a person as insane if they are only tolerably stupid. A person right, I suppose, might be stupid to a certain extent, as to be peculiar, but they must be so much so as to be incapable for the ordinary business of life.

COURT. I suppose it would be a difficult thing to draw a line where you would begin, if you were going to judge of the strength of the intellect.

A. Idiocy is commonly applied where they are insane.

Q. Have you ever studied the question of insanity specially?

A. Yes, sir. I had charge of the retreat for the insane for 2 y'rs, on Mich. ave.

Q. Do you give any special attention to that now?

A. Yes, sir. I lecture on that subject in the medical college.

Q. You are a professor there, and lecture on that subject?

A. Yes, sir.

Q. Is not insanity more common than is generally supposed or
325 generally admitted?

A. The term insanity is a general term applied to a great many things, that are entirely different. In an asylum you find people merely for the temporary forms of disease, but it is very different from that chronic want of mind which is incurable. It is very difficult sometimes to draw the line between delirium and insanity. Insanity means merely a want of health in the mind, and a person may have very great want of health in the mind, so that it is a question of opinion merely whether the want of health is so great as to incapacitate a person for the performance of the duties of life. A great many people are really insane, more insane than some in the asylum, but they are not dangerous, either to themselves or to others, and they continue to move about among their friends and the friends keep the thing quiet, but there are others only slightly out of their mind, but yet are dangerous, and they perhaps tell their friends, and they confine them for fear they will do some deed of injury to themselves or others. So that it becomes a question of opinion whether a person is incapacitated by their state of mind for certain duties. I don't think you can say a person is insane or not

insane in the old idea that formerly existed. They had an idea, the
326 ancients, that a person was possessed with some foreign spirits.

Q. Being restless at nights, seeing imaginary enemies and fighting them.

A. I might say, I have often been asked, in common cases, whether a certain symptom was a proof of insanity, and I had to say no. And so on right through the whole state of the case, because a person might have one symptom or another and yet not be insane, but with the whole, all put together, would naturally make the person out an insane person.

Q. These symptoms in the character of an insane person which I delineated to Dr. Andrews, what degree of insanity would you call it?

A. I don't understand what you mean by degree.

Q. Complete or partial, whether it indicates a very strong, clear case of insanity or otherwise, taking the aggregate of all these symptoms in one person?

A. You mention no symptoms whatever of any other character than those of an insane person. You don't give any redeeming features; so, of course, it would be a very strong case.

Q. A person having all these symptoms and was under your care, would you consider them competent to do business?

A. No, sir; I should not think they were.

Q. Conveying all their property away?

A. No, sir; I should not think they were, such a case as you mention. I don't see anything in your case in regard to the manner in
327 which she transacted the ordinary business of life, whether she made mistakes, whether she was in the habit of being irregular.

Q. I say this in reference to her undertaking to transact business of any importance or any talk with reference to business. We will suppose that she becomes false, and perhaps turns round and curses persons she has been talking to; suppose she never did anything but a small kind of business.

A. I remember now you included that in your statement.

Q. Take a woman who did not have anything to do with much business, her mind did not continue on one subject; it was not like a man who did much business.

A. I think your case would be one of an insane person.

No cross-examination.

Mr. BURDENO recalled.

Q. Did you know the family of Miss Thebault—her parents, brothers, and sisters?

A. Yes, sir; I knew the whole family.

Q. Intimately well?

A. I knew them when I was a little bit of a boy, probably 7 or 8 years old.

Q. How intimate were you with the family?

A. The same as a house raised together for years.

Q. How often did you see the members of the family?

A. I would see them three or four or five times a day and be
328 with them probably half or one-third or one-quarter of the time.

Q. Did you know the mother of Miss Thebault well?

A. Yes, sir.

Q. How often did you see her?

A. When we were neighbors I used to see her sometimes five or six

times a day; and sometimes we were in the house half to a quarter of a day, sometimes less. She was a lady troubled with "paralzme," (in French,) her arm and leg moving all the time that way. I was a young man and brought up there, and I took love to one of the girls.

Q. Just state about the intellect of the family, and particularly the old lady, whether it was particularly weak or strong.

A. She was like this: She had an ugly disposition; and if she takes to once to do a thing you could not bring her round under no consideration. Ugly disposition, and very little what you call no sensible judgement, especially in her old days..

Q. As early as you remember it, what was her intellect; naturally weak or naturally strong?

A. It was weak; very weak.

Q. How did that weakness manifest itself?

A. By her expression, by her actions, showed that her mind was weak. She had no guard over her temper at all. She might probably take a chair once and rap one of her daughters and then turn right over and kiss them. You could not rely upon her disposition at all. The
329 old gentleman was a steady gentleman*ly*, stout and smart.

Q. How was it with the other members of the family; any other children?

A. I can't help but laugh, because there is some expressions, if I could repeat it as they expressed themselves in French—in English I cannot—you could not help but laugh, because of the expression without any sense to it. A girl said something (I am going to relate to you one thing to show how foolish she was) passing a joke; then her mother just noticed that language; says she, "Ain't he as funny as a cup!" Ain't that an expression? I want to know if there is anything funny in a cup.

Q. Simple?

A. Yes; no common sense; but put money before them, the whole of they go and starve before they spend it—their god was money.

No cross-examination.

Dr. TRUEDELL recalled.

Q. State whether you know about her having weeping or crying spells If so, tell how they occurred, and when.

A. I believe I undertook to say something about that last night and I was prevented; but at times her anger was up, and she was vexed, and then she would curse and swear, and nobody could approach her. Not that they were afraid of her, but on account of her language,
330 profane and common words, &c. And at other times she was very jovial, smooth, and nice, and quiet; and at other times she would lock herself up, and then sometimes I would find her on the same day, or the second day, or the third day—I would find her in a very critical condition, that is to say, crying and sobbing; and she said she was badly off, and her head was not right. That is the expression I wanted to use last night and I was prevented.

Q. How many times did you find her crying and sobbing?

A. Many times.

Q. How many do you think?

A. Probably a couple of times during the year that I perceived her condition to be such as that, as crying, and sobbing, and lamenting.

Q. How long before her death did this occur?

A. I believe before her death it did occur, when she asked me to take care of her, and I told her I could not very well on account of having

no help. And then she would begin to cry and sob, and ask me for God's sake to do it.

Q. How long was that before her death?

A. The last time, I believe, was in October; it was in November, I believe, I commenced attending her, and that was in October.

No cross.

331 CALEB B. GILBERT sworn for plff.

Q. You are a practising physician in Detroit?

A. Yes, sir.

Q. How long have you been in practice here?

A. Six yrs.

Q. How long altogether?

A. About 15.

Q. Are you connected with the medical college here?

A. Yes, sir.

Q. What capacity?

A. Professor of materia medica.

Q. Have you made the question of insanity somewhat of a study?

A. Somewhat.

Q. We will state a hypothetical case to you: Suppose the case of an old woman about 65 yrs. of age had some valuable real estate on which she had lived 28 yrs. Much of the time she had lived entirely alone; sometimes lived in the upper part of the building, an unfinished loft, the remainder of the time occupying the whole house. She had a fair education, usually modest in her deportment and language. In the latter part of her life she showed symptoms somewhat like these: She was entirely harmless, went about from house to house getting meals, talking constantly of giving her property to some of her neighbors for the support of herself, but never adhering to any settled arrangement; talked and believed much in dreams; was very eccentric and peculiar in
332 her manner, so that her neighbors paid but very little attention to her, particularly avoided her, particularly men. She would go to men about a house and call in when the ladies were present, and generally stay to get one meal, and talk pleasantly, but was always very odd and eccentric, and had a sort of nervous jerking in her manner and change from subject to subject—commence talking on one subject, and then leave it and commence upon another. She would speak of seeing spirits and ghosts, very often of deceased persons; get up night after night, stride about her room, and fight imaginary spirits, threatening to kill them; claim that she saw ghosts by the river-side when she would go to get water; send for her physician in the night-time and ask him if he did not see lights in her room, when it was quite dark; leave a former sentence unfinished at times and fly to another; speak violently against her neighbors, at times use vulgar language, so that her neighbors would forbid her the house; dress miserably poor, no warmer in winter than in summer; use the year alike, wear only a calico dress and thin shawl winter and summer, an old shawl she had worn 20 or 30 years; generally apparently nothing on her body but the thin calico dress, so that her figure could be seen in a stormy day; this would occur in the coldest days in winter. Sometimes she would be
333 seen a mile away from her house, in the coldest weather, very thinly clad, with an old umbrella over her head when there was neither sunshine, snow, or rain; always had the old umbrella with her, sometimes spread and sometimes not. She was exceedingly penurious,

deprive herself of the commonest comforts, go without food and clothing when she had sufficient property to support herself; the latter part of her life became filthy, lousy in her person; at times desponding, shut herself up in her room and would not be seen for days, after which she would be sick; would be found crying; would also talk to herself, roll her eyes, sing and dance; sometimes would be found singing and dancing by herself, and sometimes go into neighbors' houses and make motions as if playing the fiddle, and dance about the room until they would stop her; sometimes complain to her physician that her head troubled her. With instances of a character like that, in a person of that age, what would you say was her méntal capacity to transact important business?

A. I should say she was incompetent for the transaction of business of importance.

Q. What would you say in regard to her being sane or insane?

A. I would say she was unsound. I would not call her ex-
334 actly a monomaniac; it is a mixed form of insanity; a mixed case somewhat.

Q. What do you understand by monomania?

A. One who is given to violence; raving delirium; a monomaniac is raving on one particular subject. She combined the peculiarities of eccentricity with illusions also. Taking the whole together, I should say she was of very unsound mind, or insane.

Q. I suppose there are a good many forms of insanity?

A. Yes, sir; the legal definition is not a very easy one to be given.

Q. Have you ever met a case of that kind?

A. Yes; very frequently. I have seen cases that were less peculiar, yet were subjects of the insane asylum; were sent there and retained as such.

Q. Have you seen persons that, in your opinion, were insane of this kind of insanity, that were left to move about and be with their friends during their lives?

A. Sometimes; as long as they are harmless and inoffensive, commit no kind of violence; but they are always regarded as unfit for business of any kind. I never knew one to be trusted in business that manifested this mental phenomena.

Q. Do you think a woman of that kind, who has not been in the habit of transacting business of importance, would be able—weak bodily
335 and mentally—would be able to understand an important document like the conveyance of property, and understand all its bearings upon herself and friends?

A. I should think not.

Cross-examination:

Q. Penuriousness, that not only borders upon but runs into meanness, is not necessarily an evidence of insanity?

A. No; not penuriousness.

Q. Nor monomania, nor want of capacity?

A. Monomania is a form of insanity.

Q. Is it evidence of either—I mean absolute insanity?

A. I think it is a form of insanity.

Q. What do you think is?

A. Monomania.

Q. I ask you whether penuriousness, which not only borders upon meanness but runs into meanness, is necessarily evidence of insanity, or monomania, or want of soundness of mind?

A. I say that it is not a form of insanity, mere penuriousness.

Q. No matter how mean it becomes?

A. No.

Penuriousness that leads one to deny himself of the comforts of life, to go uncomfortably clad in winter, I suppose may exist in a sane mind?

A. That single fact alone.

Q. Penuriousness, also, which will go to the extent to deprive himself of the comforts not only but the necessaries of life, absolutely
336 reduce himself to a condition of want of food, denying his stomach, may exist in a sound mind?

Q. Would you say in a mind not insane?

A. I don't call unsoundness sanity.

Q. What do you call it?

A. I call it a degree of insanity, not the highest nor the lowest.

Q. You say a person who is so penurious that he won't buy the food necessary for himself, but will punish his stomach and steal a meal of victuals here and there now and then, wherever one can catch it, is necessarily incapacitated from transacting business?

A. No; some kind, perhaps. No, I would not say so; but that fact alone——

Q. To buy and sell real estate?

A. No; I should not say he would be incompetent to transact business; that fact alone by itself.

Q. Let me suppose a case to you. I will suppose a woman who from childhood manifested a great degree of penuriousness; the highest degree you can imagine of penuriousness. Money was her god, as some of the witnesses say; didn't worship anything but dollars and cents. She would deny herself the happiness of life; go poorly clad when she could afford to dress better; of ordinary education in the French language; speak English poorly, but little; living by herself; believes in dreams; reads a dream-book; believes in ghosts and hob-
337 goblins; thinks the spirits of the departed make their appearance on this earth and walk in the flesh; not of the biggest intellect by any means, perhaps her mind not out of the average minds; plays the fiddle, who is not caught dancing by herself when there ain't anybody around, and don't roll up her eyes very frequently, but has her times of exuberance of feeling when she does dance; who carries an umbrella as a matter of habit, puts it up when it rains, possibly when the sun shines; so penurious she won't entertain her relatives when they come to see her; she goes from one subject to another in conversation very much as any light-minded woman would; thinks more about gaining and holding property and money than of anything else in the world; down on the priest, and denounces them with some bitterness; suspects people are going to get away her property if they can; suspicious in that respect. Take those peculiarities in a woman of the kind I have spoken of, might not all these exist in a mind entirely capable and competent to take care of her property and to deal with it?

A. I think not, sir.

Complainant rests.

338

339

DEFENCE.

D. HENDERSON sworn for defendant.

Q. Where do you reside?

A. In Springwells at the present time.
Q. How long have you resided there?
A. About 10 yrs.; a little over, maybe.
Q. How long have you resided in Detroit?
A. Some 11 yrs. in the city limits.
Q. Did you know Miss Thebault in her life-time?
A. I was acquainted with her.
Q. How long did you know her before she died?
A. I saw her frequently for about 15 yrs.
Q. How often did you see her for 2 or 3 yrs. before she died?
A. Most every day.
Q. I suppose you are a Frenchman and speak the French language?
A. I do, sir.
Q. How happened you to see her nearly every day? What was your business or situation with respect to her?
A. I was working near by her place; I worked for Mr. Morantie. It was not but a little way from her place. After I quit him I worked for P. Jewells & Co.
Q. How long did you work for them before died?
A. Nearly a year and a half, I should say.
Q. Did you talk with her or hear her talk often during that time?
A. I did.
Q. What did she use to talk about?
340 A. Nothing in particular.
Q. Generally?
A. The things transacted most every day on her place.
Q. What do you recollect; can you recollect any conversation you have had with her?
A. Once I went in to buy a violin from her; I offered her $3 for it; she went for it, but she said she would rather not sell it for $3 because it was an old article, and she would rather keep it if she did not get what it was worth.
Q. When was that?
A. Year before she died. The same summer rather.
Q. Do you recollect any conversation or any talk you have heard from her?
A. She wanted me to fix a clock for her. She had not the money at the present time she said, but as quick as she had the money she would get me to fix it for her.
Q. When was that?
A. That was in the same fall.
Q. Before she died?
A. Yes, sir; she died in Feb. This was the fall previous; she seemed to be all right at that time.
Q. From what you saw of her what would you say as to whether she was of sound mind or not during all the time you saw her?
A. I never knew her to be any different but what she had her right mind, because she used frequently to come when I was working at Marantie's, where I worked about 7 yrs.
Q. How often did you see her while there?
341 A. She used to come 2 or 3 times a week, evenings, to get a little milk. She used to dress kind of odd; but it was her natural way from childhood. As long as I knew her, she never acted any different. She was a very close woman.
Q. What was her peculiarity with regard to spending any money, as far as you observed it.

A. She was very close when she would buy anything. She would always try and get the best trade, trying to get it as cheap as possible, in the store or anywhere else.

Q. What was the condition of her health during all this period that you knew her?

A. I never knew her to be sick, of my knowledge, because she was pretty familiar with me. She used to go to Marantie's so often that she was well acquainted with me. I noticed occasionally she would be down with a bad cold before she died.

Q. Do you remember when she died?

A. Yes, sir.

Q. How recently before her death did you see her?

A. I think I was in 2 or 3 days before she died. She beckoned to me from the back door to come in and make a fire. She said she did not feel well—had a bad cold and cough—and I kindled a fire for her.

Q. Have any conversation at that time?

A. Not particularly.

Q. During any of the time from Oct. down to her death were
342 you in the house except on this occasion?

A. I was in 2 or 3 or 4 times.

Q. Did you have any conversation with her at any of these times during that fall or winter before she died in respect to her property.

A. Yes, sir.

Q. Hear her talk about it?

A. She told me, when I made the fire, made the remark about dying, she said: "I may outlive you yet. I may get over this cold," and I told her that might be, but she had poor prospects.

Q. What did she say?

A. She said: "I ain't going to die now exactly." She had a dreadful cold that morning.

Q. Do you remember her carrying an umbrella when she was about on the streets?

A. She would, in hot weather, the same as anybody else would.

Q. Ever see her with it up when there was no occasion for it?

A. No, sir; I never did.

Q. Did she play the violin herself?

A. Yes; played some. She had a very good ear for music. She could tell when anything was played correctly or not.

Q. What was her disposition—joyful or otherwise?

A. I never saw anything out of the way. When she visited the folks where I lived she was always very talkative, and I have never seen any sign of anything ugly about her. I have seen her get mad at boys for knocking plums off the trees; said they were badly brought up.
343 She had a plum-tree at her house at the time. It is cut down now, I suppose.

Q. From what you saw of her, what would you say as to her capacity to make a contract with respect to the sale of her property?

A. I think she was sensible enough to do business, to the best of my knowledge; I recollect one time in August, the summer before she died, I was working at Larlue's, and I took a drink of ice-water, and I was paralyzed almost, coming out of a real hot tank; & she met me at the gate & I told her I felt sick, and she advised me to go back into the tank and work as hard as I could, & "you will save yourself; otherwise you will die;" I was very bad; Mr. Thebo here saw me.

Q. That was in August?

A. August, 1863.

Cross-examination:

Q. How long did you say you resided in Detroit?

A. About 11 yrs.

Q. Where did you live before that?

A. I lived in Springwells most of the time.

Q. You stated you lived in Springwells 3 yrs. & Det' 11 yrs.; 11 were previous to that?

A. Sometimes in Springwells and sometimes up the lake.

Q. Where were you five yrs. previous to the time you speak of living in Springwells? That would be 14 yrs. since you lived in Det' & Springwells. Where did you live 5 yrs. before that?

344 A. I was born in Springwells and spent most of my there.

Q. 5 yrs. before that time where were you, up the lakes?

A. I cannot say all the time.

Q. Where was your home?

A. Springwells.

Q. Where do you recollect first having seen Miss Thebault?

A. I used to come up town frequently, & I knew the old lady by sight.

Q. When did you first become acquainted with her?

A. When I worked for Marantie's.

Q. That was some 11 years ago?

A. More than that.

Q. How long ago was it, about, when you got acquainted with her?

A. It must be about that when I thoroughly got acquainted with her; but I had seen her, off and on, during 15 yrs., to the best of my knowledge.

Q. Did you know anything particularly about her characteristics before that, or is it within that time?

A. No more than what I state.

Q. You merely saw her and knew her by sight?

A. I used frequently to go there, for I worked at Jewell's tannery.

Q. That was since that time?

A. I have often seen her.

Q. Before that time?

A. Before I went to work there.

Q. Did you know any more than know her name?

A. I used to speak with her when she came to Morantie's.

Q. About how long ago was that?

345 A. 11 yrs.

Q. Previous to that did you know anything about her?

A. No more than I knew her by sight; but I never saw anything out of the way with her then.

Q. You did not know whether there was anything out of the way or not, did you?

A. I did not see any act any different from what any person would act.

Q. If there had been anything out of the way would you not have known it?

A. I believe I would during the time I was working there.

Q. Before you went to Morantie's?

A. No, sir; I don't know that I would.

Q. You say she always had these peculiarities from childhood?

A. I have always heard people say so that were brought up with her.

Q. That is not evidence.

A. I have always seen her act in that way.
Q. Within 11 yrs.?
A. That I knew her.
Q. What is your age?
A. 32.
Q. You knew nothing about her or her eccentricities no more than what you saw?
A. That is all.
Q. You say she was very close, and always tried to buy cheap; where did she do her trading?
A. Most everywhere where she happened to drop in.
Q. Ever see her buy goods?
346 A. Occasionally I did. I saw her frequently.
Q. Where?
A. B—— and Reynolds. I saw her buy tea at Reynolds' store.
Q. What exhibition of her closeness did you see then?
A. She would always want him to throw off something when she would buy a certain quantity. She said she had not much money.
Q. She generally had good health you say?
A. Yes, sir.
Q. How was she during the last yrs. of her life?
A. Her health was very good until the cold weather set in, until a week or so before she died.
Q. When did she get that cold you speak of?
A. She got that some time—I do not remember exactly.
Q. Fall?
A. No, sir. It was just a week or so before she died, to the best of my knowledge.
Q. Hadn't she gone miserably attired all that winter?
A. No; I never noticed anything.
Q. She died of consumption?
A. I think not.
Q. What did she die of?
A. Old age, I guess, and a bad cold.
Q. You don't know whether she had this cold long or not, or only about a week, you say?
A. That is about all.
Q. You were there when she died?
A. I went after she was dead, and I went in a couple of days before.
347 Q. What was her condition at this time you speak of—2 or 3 days before she died?
A. The time I went in to make a fire?
Q. Yes.
A. She coughed very hard.
Q. Was she lying in bed?
A. No, sir; she was up.
Q. Had she fuel there in the house?
A. She had not any at the time; I brought in some pieces of tan-bark that night, and I got some wood. There was wood in the yard, but I did not go out to get it.
Q. What sort of wood?
A. Stove-wood.
Q. Sawed and split?
A. Yes, sir.

Q. Did you ever see much provision in the way of wood in the yard and about the house?

A. That I never took particular notice of. She told me she lived well, and Dolson was taking good care of her.

Q. When was that?

A. That was at the time I made the fire.

Q. Before Dolson bought this property, how did she live?

A. Now and then she would go up to the city, and she would more or less beg something to take down, when she had no money to buy.

Q. Go around to get her meals?

A. Frequently.

Q. Did you ever see her table set ready for a meal?

A. No, sir.

Q. Do you know how she lived?

348 A. I never saw her table set, and never saw her eat.

Q. Do you know how she provided her house with fuel; whether she lived comfortably?

A. I never knew anything different.

Q. You don't know whether she did or not?

A. No, sir.

Q. About her clothing; how did she dress?

A. She dressed commonly; she would not spend much money for her dress.

Q. Dress suitably to the weather?

A. Not exactly.

Q. In cold weather, how did she dress?

A. Poorly.

Q. Didn't she always wear a calico dress and a thin cotton shawl?

A. She had a small woolen shawl.

Q. What sort of shoes did she wear?

A. She wore ordinary shoes—low shoes, I think.

Q. Did you ever see any exhibition of filth or vermin upon it?

A. I never noticed until she was dead.

Q. Was she clean & tidy?

A. No; I always thought she was——

Q. What did you notice after she died, in that respect?

A. When I went in after she died I was there with 3 or 4 persons, and I tied up her jaw, but she was covered over with vermin. That is the reason they would not touch her at the time.

Q. Previous to her death you had not noticed?

349 A. No, sir; and I never heard anybody say, & I never knew any one to catch anything from her, because she used frequently to come there to Morantie's, and if there had been anything of the kind they would have seen it.

Q. Are you a musician—understand music?

A. Not thoroughly.

Q. You say she had a musical ear; what do you know about her knowledge of music?

A. She could tell when a piece was played right.

Q. Did you play the violin?

A. A few times.

Q. Do you know whether she played correctly?

A. I only heard one. She played "Grosse Pointe;" that is the only one I heard her play.

Q. You say she was always very talkative?

A. She was when she came to Morantie's.

Q. Did you ever notice this talking of hers—running from one subject to another—changing about and talking in an excited manner sometimes?

A. I did not.

Q. Did you ever notice her talking upon one subject a few moments & leaving it and talking upon another?

A. No, sir.

Q. Or get a sentence partly finished and commence another?

A. No, sir.

Q. Ever talk about the priests?

A. I did not hear her.

350 Q. Ever hear her use any vulgar language or *or* profane?

A. No, sir; not any more than saying the hogs were very badly brought up in French.

Q. Would she swear to them?

A. No, sir; I never heard her swear.

Q. Never heard her use any vulgar language?

A. No, sir; not to my knowledge.

Were you at Morantie's house?

A. Yes, sir.

Q. Were you boarding there?

A. Yes, sir.

Q. You used to see her at the house?

A. She used to come over twice a week sometimes.

Q. At that time, how often were you there?

A. Most every night; I hardly ever went away from the place.

MARGARET THEBO sworn for deft.:

Q. Where do you reside?

A. I live on 12th st., corner of Lafayette.

Q. How long have you lived there?

A. I have been living there 62 years.

Q. Where did you live before that?

A. On the river road.

Q. Near where Miss Thebault lived?

A. Yes, sir; right across the road from there.

Q. Did you know her in her life-time?

A. Yes, sir.

Q. How long had you known her before she died?

A. About 14 yrs.

Q. How near did you live to her during that time?

351 A. The same place all the time.

Q. Right opposite?

A. Yes, sir.

Q. How often did you see her during that time?

Sometimes she used to come 3 or 4 times a week and spend the evening with us; sometimes she would be 2 weeks without coming, sometimes longer than that, just as she would take a notion.

Q. Whether you were at her house at all?

A. Yes, sir; once or twice; I believe twice or three times during that time.

Q. Before her sickness?

A. Before her sickness.

Q. Did she take meals at your house ever?

A. No, sir.

Q. Did you see her during her last sickness?

A. Yes, sir.
Q. How often?
A. I saw her sometimes every day for a week or so.
Q. Did you ever have any talk with her about her property?
A. No, sir.
Q. Ever hear her say anything about deeding it away to anybody?
A. No, sir.
Q. Ever hear her say whether she would deed it away to any one?
A. Yes, sir; she said she would.
Q. What did she say about it? State what she said about deeding her property.
A. She said she would like to sell her property if she could. That is all I heard her say about it. She was kind of sick about the time.
352 Q. When was that?
A. That was before she sold.
Q. Did she say anything about to whom she wanted to deed it?
A. No, sir; she said she would like to sell it; that is all.
Q. Did you talk with her on this subject at various times?
A. No, sir.
Q. When she was at your house and you at hers did you talk to her?
A. Yes, sir.
Q. What did you usually talk about?
A. Indeed, I don't remember; it is too long, because a good many times she was talking and I would not answer; she had so much to say.
Q. Was she a great talker?
A. Once in a while she was; other times she would not.
Q. What did you ever hear her say, if anything, about Allore having her property?
A. I heard her say she would not give it to him.
Q. What did she say about it?
A. She said she did not want to give it because he was married without her consent. That is what she used to tell us; told me that very often, that he had his share, and he would take all; that she did not want to give him hers.
Q. Did you talk French?
A. Yes, sir.
Q. Were your conversations with her in French or English?
A. Always French. She could not talk much English; she could talk a little.
Q. During all the time you knew her what would you say
353 with respect to her mind, whether she was sane or insane, crazy almost or not?
A. I did not think she was crazy to the best of my knowledge.
Q. You don't think she was crazy?
A. No, sir.
Q. How was it after she was taken sick?
A. I do not think she was any crazier then than she always was.
Q. Was she always odd and peculiar?
A. Yes, sir; nobody could ever take advantage of her.
Q. How did she dress—poorly?
A. Yes, very poorly. I never saw her winter or summer dressed any way but one way.
Q. You say you were with her every day during he rlast sickness; for how long a time was that?
A. For a week or so before she died. I was there sometimes once a

week after she sold, but when she was very sick I was once a day, sometimes twice.

Q. Stay with her nights any?

A. Yes, sir; I can't remember now whether once or twice. I stayed one night.

Q. Before she was sick, how was she with respect to her person, filthy or kept herself clean?

A. Middling clean.

Did you ever notice any vermin on her before she died—lice, anything of that kind when she was well?

354 A. Not when she was well.

Q. Before she was taken sick?

A. No, sir; I never noticed she had any such things around her, only about a year before she was taken down sick; she was sick then, I think, a year before she was down.

Q. Before she was taken sick the last time?

A. Yes, sir; she was sick two years, but not very sick, she was just able to go around.

Q. Did she play the fiddle?

A. I saw her play once.

Cross-examination:

Q. Never saw her play the fiddle but once?

A. No, sir.

Q. When was that?

That was long ago. That was about 18 or 20 yrs., but then I was not acquainted with her. It was the first time I saw her, and then I used to see her after that. I was married about 2 yrs. or 2½.

Q. Before she died?

A. No, sir.

Q. After that time?

A. Yes, sir.

Q. How far was your house from hers during the latter part?

A. The time she was playing the fiddle I was on a visit.

Q. In the latter part of her life how near did you live to her?

A. I lived right across the road from there.

Q. You say you saw her sometimes every day and sometimes 3 or 4 times a week?

A. Yes, sir.

355 Q. Who were her most intimate friends? Where did she use to go?

A. To Mrs. Cuson, Mrs. Downs, Mrs. Belknap.

Q. Mrs. Sutton?

A. I was not acquainted with Mrs. Sutton, but she told me she used to go there. I never saw her go there.

Q. She was very intimate at these places—went in & out?

A. Yes, sir.

Q. Got her meals there?

A. Not that I know of.

Q. Ever got her meals at your house?

A. No, sir; never that I remember.

Q. Were you one of her intimate friends?

A. No, sir.

Q. Did you use to see her as often as the other people?

A. Yes, sir; sometimes, when she had got tired of us and would not speak to us, she would go off.

Q. Get mad?
A. Yes, sir.
Q. Did she have these mad spells pretty often?
A. She would soon come back; it would not last.
Q. Would she sometimes come in & commence to talk and fly mad?
A. Yes.
Q. Was that more so during the latter part of her life?
A. O, yes.
Q. How did she grow, worse towards the latter part of her life as to these freaky times, yet more feeble and peculiar—eccentric during the latter part of her life?
356 A. Not that I know of.
Q. About the same as before?
A. I believe so.
Q. You speak of her being sick for 2 yrs.?
A. Yes, sir. She did not keep the bed then; she never begun to keep the bed until Jewell had bought.
Q. So she was around some, but was sick?
A. Yes, sir; she was able to go around, but after she sold out she was not around but a little while; but before she used to be around the neighbors a good deal.
Q. How soon do you think she became confined to her bed?
A. I can't say.
Q. Was it a week or two weeks?
A. More than that; I think 6 mos. It is so long I can hardly remember.
Q. How sick was she just before she died?
A. I do not know how sick she was.
Q. You spoke about talking with her about her property, saying she was sick and wanted to sell?
A. Yes, sir; she was sick then; she used to come over to our house and say she was very weak. Early in the morning, my husband was just getting up, and she would come in & talk with her.
Q. She sold her property the last of Nov.; do you remember?
A. No, sir; I did not notice that.
Q. Was it just before she sold; you knew at the time she sold?
357 A. Yes, sir.
Q. Was this just before she sold that she was so sick?
A. Yes, sir; just before she sold; two or 3 weeks before. She was kind of meek like. She used to come around. If it was a good many they would keep the bed, I think, but she was so odd she did not like to keep in the house.
Q. What were some of her oddities? You say she was very odd and peculiar; how did she act?
A. She used to be a kind of queer person. She would not let anybody in her house. Sometimes anybody would come and knock at her door, she would ask what they wanted; anything like that.
Q. How would she appear if she opened the door?
A. She would ask what you wanted, and when you would tell what you wanted you could come in.
Q. Can you state some other peculiarities?
A. No, sir.
Q. Did she carry an umbrella?
A. Oh, yes; everywhere she would go she would carry an umbrella and a book.

Q. What kind of a book? Did you ever hear her talk about dream-book?

A. She was a Catholic.

Q. What kind of a book was it?

A. I can't tell. I saw a book in her hand, but I can't tell. I suppose it was a Catholic book. I used to see her walking to church.

Q. How did she talk about the priests?

358 She did not talk very well about the priests.

Q. Ever hear her talk about a dream-book?

A. No, sir.

Q. Did you ever hear her say anything about seeing ghosts and visions?

A. O, yes.

Q. What did she say?

A. She was telling me she had seen a ghost, a woman; that she had made her promise when she died, if she died first, she would come to her and tell her whether there was a heaven & a hell; and she was coming from Mrs. Lafferty's one night, and the woman, she says, she saw a light appear at the back corner of the house.

Q. Did she say whether the room was lighted up?

A. Yes, sir. She told me when she thought it was far enough she told it to stop, whatever it was, and they stopped; and she asked then if she was such a woman, and the woman said yes; and she said the woman went off in the same direction whence she came.

Q. Did she ever speak of seeing other persons coming in visions?

A. Not to me.

Q. You say she was middling clean?

A. I never went often in her house, but when I have gone I think it was middling clean. There could be cleaner houses and there could be dirtier, but during her sickness it was very dirty.

Q. How was she in her person along after this time, while she

359 was kind of miserable, but while she was around, how was she in her person?

A. She was dirty.

Q. Very dirty?

A. Well, not very dirty, but middling.

Q. Did you see her after she died?

A. Yes, sir.

Q. Did you notice any vermin crawling on her?

A. Plenty of it.

Q. How was she while she was sick or during the last of her life? How did she provide for herself? Did she have any suitable bed-clothing or fuel, or things suitable?

A. Her bed-clothes I never saw before she was taken sick in bed.

Q. Did she have fire in her house?

A. Before she was confined to bed?

Q. Yes; along before and after that.

A. O, yes; she used to make a fire once in a while.

Q. How was it after she was sick? Have fire suitable for a sick person?

A. Yes, sir; after she sold out she was pretty comfortable.

Mrs. MARY A. DOWNES, for deft.

Q. Where do you live?

A. Ninth ward.

Q. How long have you lived there?

A. About 15 or 16 yrs., to the best of my belief.
Q. Whereabouts in the ninth ward?
A. I live now on 17th street.
360 Q. Where did you live in '63 & '4.
A. I lived on the river road.
Q. How long did you live there?
A. About 15 yrs.
Q. Where abouts on the river road?
A. In front of Jewell's tannery.
Q. How near Miss Thebault's?
A. Very near; across the road. There is not much difference.
Q. How long had you known her prior to her death?
A. I believe I had known her about 12 yrs., to the best of my belief.
Q. How well had you known her; how intimately?
A. Well, not very; she was a French lady, and did not come in and out much to me. I have seen her passing in the street off and on.
Q. Has she ever been at your house?
A. Yes.
Q. How often?
A. I can't say.
Q. About how often?
A. Sometimes maybe once a week, and maybe more. She used to come once in a while for milk.
Q. Bought milk of you?
A. Yes, sir.
Q. Did you see her during her last sickness?
A. I saw her the morning she was dead. I don't recollect whether I was in to see her before *before* that. I saw her before she died that morning.
361 Q. Did you ever have any talk with her during all this time you knew her—have any conversation with her?
A. No, sir; I do not think I had. Of course I would salute her and speak with her, but that would be all.
Q. Never had any further conversation than merely to speak to her? Did you ever hear her speak?
A. Yes, sir; talk to the boys and the children around; that was all.
Q. How was she dressed?
A. I don't think I ever saw more than a calico dress on her.
Q. Wear that always?
A. Not the same one always. I can't say I ever saw her have anything else but a calico dress.
Q. What did you hear her talk to the boys about?
A. Nothing more than the boys would plague her; the little boys; and she would scold them. I never heard her say anything but scold the little boys.
Q. You don't remember having any conversation, or anything more than talking to the boys?
A. No, sir.
Q. When she bought milk of you what took place?
A. Nothing more than she would pay me; sometimes she would bring two cents for a pint, and say she would bring more another time; but I never would ask her for it, of course.
362 Q. Your chief knowledge consists in having seen her during all these 14 years, living opposite her, and seeing her talk to the boys, or hearing her, and her buying milk of you?
A. That is all.

Q. From what you saw of her in this way, will you state whether she was sane or insane, or crazy or not?

A. I did not see anything at all crazy about her; nothing at all that I could say she was crazy.

Cross-examination:

Q. Would she ever bring any money for the milk?

A. Yes, sir; sometimes brought money, and sometimes none; but I didn't care whether she brought it or not; I gave it to her whenever she came, if I had it.

Q. Did she always pay for her milk?

A. Yes, sir; she always paid, without perhaps there would be a cent left behind, something like that; perhaps she would come with two cents, and it would be three or four, and she would bring two.

Q. Would she ever bring the rest?

A. Not that I remember. No, sir. She never used to take but a very little quantity.

Q. At the time these boys *pegged* her, did you ever hear them call her anything?

A. No more than Kennet; they would call her that.

Q. You don't understand French?

A. No, sir.

Q. What countrywoman are you?

363 A. Irishwoman.

Q. Could you understand her?

A. No, sir; I could not understand very well, because I don't think she spoke very plain.

Q. You could not understand much she said?

A. No, sir.

Mrs. MARY LAMERE, (Mr. Dobson acting as interpreter.)

Q. Where do you live?

A. I live in Lafferty's house.

Q. Did you know Marie Genevieve Thebault in her life-time?

A. During three years she was my neighbor.

Q. Which 3 years?

A. Three years before her death.

Q. Had you known her before that?

A. No, sir.

Q. During that three years, how often did you see her?

A. Sometimes once a day; sometimes twice a day.

Q. Has Miss Thebault ever been to your house during this time?

A. Yes, sir; she used to come in the evening—spend the evening often.

Q. Were you in the house of Miss Thebo yourself?

A. Have been there myself.

Q. During those occasions when you met her there at your own house or Miss Thebo, whether you conversed with her frequently.

364 A. I had conversations with her.

Q. Did you ever hear her say anything about her property?

A. Yes, sir.

Q. Did you hear her say anything about conveying it away, disposing of it; and, if so, what did she say?

A. Heard her say she would sell it to a rich person.

Q. Did she say how she would sell, or why she would, to a rich person?

A. She said she would sell to a rich person, in order to keep her property; what she means is, to be sure of her getting value.

Mr. DOBSON. She is Lower Canada French, and, I presume, does not understand to read the English, and speaks very peculiar. It is not like a person that has learned the language.

Q. Did you ever have any talk with her about conveying her property to yourself or husband?

A. No, sir.

Q. From what you saw, your acquaintance with her, what do you say with respect to whether she was sane or insane, or crazy or otherwise?

A. My opinion is, she was not crazy.

Q. How did she dress?

A. Calico dress.

Q. Would she play the fiddle or not?

A. I don't know; I never saw her.

Q. How was she about her person, as regards neatness, when she was well?

A. She was not very clean.

Cross-examination:

365 Q. Was she not very filthy; very dirty about her person?

A. She was dirty.

Q. Did she have vermin upon her?

A. She did.

Q. Was she not very old and peculiar?

A. She had oddities, peculiarities; if she was crazy, it was a voracious crazyness.

Q. Did you tell Dr. Truedell at one time she was crazy?

A. I never talked to him about it.

Q. In what way was she crazy; voracious about her property; how she showed it?

A. During the three years she talked very well; her conversation seemed to be very good; if she was crazy, it was a voracious crazyness.

Q. In what way was she voracious?

A. She was particular about her clothing; that it should be well taken care of; that nothing should be lost.

AUGUSTUS FREDERICK ROEHM:

Q. Where do you reside?

A. Corner Fort and Seventh.

Q. Did you know Marie Genevieve Thebo in her life-time?

A. Yes, sir.

Q. How long was you acquainted with her?

A. Some three or four years; that is, I lived in the neighborhood with her some three or four years. I have known her since '57.

Q. How near did you reside to her during any portion of that time?

366 A. I guess there were about 100 feet between us.

Q. How long did you reside 100 feet from her?

A. Some 3 or 4 years.

Q. What years were they?

A. From 1857 to the neighborhood of '61.

Q. From '61 down to the winter of '64 where did you reside?

A. Corner Fort & Seventh.

Q. How far from where she lived?

A. About half mile, I guess.

Q. Were you employed in that vicinity during any of that time?

A. No, sir.

Q. How often did you see her from '61 down to '64?
A. Not very often; she would pass occasionally and step in.
Q. What business were you engaged in the time you lived near her?
A. Meat market.
Q. During all that time?
A. Yes, sir.
Q. How often did you see her during that time?
A. I saw her a good many times every day.
Q. How often did you talk to her?
Every day, at least.
Q. Did you speak the French language?
A. No, sir.
Q. Did she speak the English language to you?
A. Yes, sir.

Q. What did you talk about when you had these conversations?
367 A. Nothing in particular—pass the time a day, *ect.*; that is about all.

Q. Whether she came to get meat of you?
A. She did.
Q. How often?
A. I can't say exactly; once in a day or two, or two or three days.
Q. Did she buy meat of you during that time?
A. Yes, sir.
Q. From what you saw of her during that time, what do you say of her mental capacity to manage her own business affairs?
A. She managed them pretty close, as far as I can remember.
Q. What do you say as to her being sane or insane?
A. Should say she was sane.
Q. Did you ever hear her talk about selling her property or disposing of it in any shape?
A. Yes, sir.
Q. State what & when.
A. I inquired of her what she would take for it.
Q. When was that?
A. Before Mr. Jewell got it.
Q. What was the conversation? Give the whole of it.
A. She told me she didn't want to sell just then; she had an offer, and she would let me know in a few days. That was the last I heard of it until I heard Mr. Jewell had it.

368 Q. Did you ever have any talk with her about her property; either about leasing it or selling it, or anything else?
A. She talked of leasing it several times. I leased a small piece of it once for an ice-house.
Q. Who did you make your contract with?
A. With her.
Q. When was this?
A. During these 3 or 4 years; I don't remember the time.
Q. Making your negotiations with her, how did she talk?
A. She talked all the money out of me she could get, anyway; I know that.
Q. Did you make a written lease?
A. No, sir; a verbal lease.
Q. From what you know of her and saw of her, what would you say as to her capacity to understand a deed—a conveyance of her property with a provision in it that she should have $500 a year as long as she lived?

A. I should think she understood it perfectly. Come to recollect, she told me about this plan. She was to get so much a year and support for the rest of her days.

Q. When was this; how long before she died?

A. Just after she had made out the papers.

Where did you see her?

A. Near her house, one day.

Q. How did the conversation come up; do you remember? What started it?

A. Concerning the selling of the lot. As I was telling before, I was talking of buying it.

369 Q. She had told you she would let you know before she sold it?

A. That was it exactly.

Q. You spoke about the fact she sold it? Who commenced the conversation?

A. I asked her her conclusion about selling it, and she told me she had disposed of it.

Q. What did she tell you about the terms?

A. If I remember wright, she was to get $500 a year and her support the rest of her years.

Cross-examination:

Q. You have heard the case talked about considerably, haven't you?

A. No, sir; I have not. I have not heard a thing of it until to-day, when Mr. Lewis came and asked me if I would come up.

Q. Did you hear anything said about what she was to have?

A. No, sir.

Q. Did you from other persons?

A. No, sir.

Q. You got it from her?

A. Yes, sir; I did.

Q. You say she was very sharp about business?

A. She was with me, as far as I can remember.

Q. Did she talk very shrewd?

She always made a close bargain when she came in my shop.

Talk very consecutively, and right to the point, always?

370 A. Always. That is, if she came to buy a piece of meat, she wanted to buy it as cheap as she could.

Q. Did you hear anything strange about her talk?

A. No, sir.

Q. Never hear her talk differently than other people?

A. She spoke broken English; that is all.

Q. You don't understand French much?

A. No, sir.

Q. You could understand all she said?

A. Yes, sir.

Q. Speak the English well?

A. Not first-rate; but so any one could understand her. Of course, once in a while she used a word I could not understand, but very few. All she spoke to me I could understand.

Q. Nothing odd or peculiar about her?

A. I don't remember.

Q. Never noticed anything of that kind?

A. She would go along about her business; never look at any body or interfere with anybody. That was about all I could see.

Was she talkative?

A. Not much so, unless she had something to say to some boys.
Q. I suppose you never talked to her, except about the boys?
A. Not very often.
Q. Did you ever have any talk with her?
A. I would come and ask the time of day, and "How do you get along?" That was the most of it.
Q. No talks upon other subjects?
371 A. Well, I don't remember now; it occurred quite a good many years ago. She talked sometimes over the affairs; I don't remember now what they were.
Q. You never noticed anything odd or peculiar about her.
A. No, sir; I couldn't say that I have.
Q. Was you ever in her house?
A. Yes, sir.
Q. Ever notice anything peculiar there?
A. It was an odd-looking place; that is all I can say.
Q. How long was this before she died that you were in there?
A. That I cannot—I don't remember when she died. I heard of her death, but I don't remember the time exactly.
Q. How long before she died was this conversation that you had with her about the property?
A. It was shortly after Jewell got it.
Q. What season of the year was it?
A. It was some time in the fall of the year, I think, before I left there.
Q. Before you lived on the river road?
A. Yes, sir.
Q. What year did you leave?
A. I think it was in the neighborhood of 1861.
Can you tell us positively?
No, sir; I cannot. I would not like to say, because I don't remember positively. I am positive it is between '60 & '61 I left there.
Q. Do you say this was during that time?
372 A. It was made before I left writing.
Q. About how long before you left?
A. I cannot say that.
Q. Where did this conversation occur?
A. It was close by her own place, when I was passing by one day.
Q. You are positive it was before you left there. What fixes that upon your mind?
A. Well, I guess I never had much to say to her after that; I very seldom saw her.
Q. I suppose you were leaving there and your attention was called to the property?
A. Yes. After I left there I never thought anything more about it.
Q. Do you recollect ever having any talk with her at all? You kept a meat-store on F't street?
A. Yes; I know that was her place.
Q. After you went on Fort st., did you keep a meat-st're?
A. Yes, sir.
Q. She would go there?
A. Sometimes she would pass and drop in.
Q. Ever trade with you after you went there?
A. Yes, sir. Come and get a small piece of meat.
Q. How much?
A. A pound or so, or get bone for soup. That is all. She said she

would want but a small piece. She was alone, and did not want to waste it.

Q. Ever see her carrying an umbrella?

A. I think I have seen her with an umbrella.

Q. Did you ever see her without one?

A. O, yes.

373 Q. Did she very often have one?

A. I would not say that.

Q. What is your remembrance about it?

A. I remember seeing her with an umbrella occasionally; rainy weather or a hot sun; but how often I cannot say.

Q. Never see her in fair weather with one over her head?

A. I do not know; I cannot swear concerning that.

P. G. BELKNAP sworn for defendant:

Q. Where do you reside?

A. In Detroit.

Q. Whereabouts?

A. Ninth ward.

Q. Whereabouts?

A. I reside on 15th st., No. 33.

Q. Did you know Miss Thebault in her life-time?

A. I did.

Q. How long before her death had you known her?

A. I think, as near as I can recollect, about 10 years, or between 9 & 10.

Q. Do you remember when she died?

A. I remember about it.

Q. How long before her death did you know her—down to the time she died?

A. Yes, sir.

Q. For the 10 yrs. previous to her death?

A. Previous to that.

374 Q. How near to her did you reside during that time?

A. I think within about 100 ft. or 125, or somewhere along there.

Q. On the same side of the street?

A. On the opposite side.

Q. What was your business there?

A. My business was wagon-making and blacksmithing.

Q. How often did you see her during the time you lived there and were engaged in that business?

A. I used to see her sometimes a half a dozen times a day; sometimes once a day; she used to visit me, generally, two or 3 times a day.

Q. What was *your* business at your place?

A. Come there to get chips and shavings.

Q. Did you have conversation with her on those occasions?

A. I had frequently.

Q. What did you talk about?

Her conversations mostly was about the troubles—the boys bothered her a great deal; generally the biggest part of her conversations. The boys used to torment her a good deal; kept her running out chasing them; and she would frequently come over and tell me about them, what bad boys they were, and how they ought to be punished.

Q. Did you ever do any work for her?

A. I did one job, and I think two.

Q. When?

A. About her house. I cannot really tell you when; I did not fix it

in my mind. I know she came to my shop one day and wanted
375 me to fix the back of her door.

Q. Do you remember how long before she died?

A. In the neighborhood of 3 yrs., as near as I can recollect; some time before, any way.

Q. Do you remember when she deeded her property to Jewell? Do you remember the fact?

A. I remember something of the circumstances. Of course I know nothing of the facts.

Q. You remember she did deed it?

A. I remember she reported she did so.

Q. Whether you saw her afterwards?

A. I saw her afterwards.

Q. Ever have any conversation with her about her having conveyed her property away?

A. No, sir.

Q. Ever have any conversation with her about her property?

A. I had, frequently.

Q. What did she say? What conversation did you have?

A. She wanted me to buy or lease one of her lots; and she came to me frequently about it. I told her I had no use for it; and supposing I leased it, it was of no use to me. And at another time she told me that a man that was working for me at that time wanted to get her place; and she said she would not give it to him, because she thought it was not right for him to start opposition to me; but if I wanted it I could have it.

Q. From what you saw of her during these ten years, the conversations you had with her, what do you say as to her being sane or insane?

376 A. I could not call her insane by any means.

Q. What can you say as to her capacity to manage her own affairs—to deal with her property and to take care of it?

A. I think she was capable, from what little business I saw her transact, that she was capable of doing her own business.

Q. How did she dress?

Her dress generally was a calico dress, and she generally had on a kind of hood of some kind of an old bonnet. She most always had that on when she went out.

Q. How was it about carrying an umbrella?

A. I have frequently seen her go out with an umbrella.

Ever see it spread when there was no sunshine or no rain, and no cause for it.

A. I cannot say as I have. I have seen her have an umbrella up, but it was generally when the sun was shining pretty hot, or rainy.

Q. But the umbrella was her companion?

A. Yes, sir; generally as a walking-stick; had it along with her anyway.

Cross-examination:

Q. You lived within 200 feet?

A. I think about 100 or 125.

Q. Did you live there, or was your shop there?

A. My house was n'west of it. The shop was just across the street.

Q. What time did you move away from there?

A. In 1865, I think.

Q. Do you know about her last sickness?

377 I knew it was reported she was sick; I knew the people ran

out and in and said she was sick; but I was not in during the time.

Q. Any of your family in?

A. No, sir.

Q. Were you in after she died?

A. No, sir; I was not.

Q. Were you on any particular terms of intimacy with her?

A. No, sir; none in particular.

Q. Did you ever use to pay much attention to her when she was moving around there?

A. Not a great deal. I used to sympathize with her; she would tell me about the boys.

Q. What were they doing?

A. They would come in and steal her grapes and currants; and she had some apple-trees in there. She used to club them, and once in a while they would throw against the house.

Q. Call her names?

A. "Mother Carrie," I think they called her. She did not like that.

Q. Nothing else?

A. No, sir; not that I am aware of.

Q. Do you understand the French?

A. No, sir.

Q. Could you understand what she said?

A. I could.

Q. You know there are a good many degrees of insanity; a good many shades of it?

A. I suppose there are.

378 Q. You say you could not call her exactly insane. Would you call her sane, like many other people?

A. Many probably would think she was sane on some points. I suppose some points she was insane on, but she was not so but she could attend to her own business, and knew what she was doing.

Q. Was she nervous and excitable?

A. Yes, a little excitable.

Q. Peculiar in her ways?

A. Yes.

Q. How did she show that?

A. In the way she would generally act; the manner in which she usually conducted herself.

Q. Was she nervous and excitable?

A. Yes, a little so.

Q. How did she show that in her conduct; in her conduct or manner?

A. When she was a little excited she would do it by motions, and by shaking her head and talking fast.

Q. What did you notice in regard to her changing around in talking—upon one subject long or flying from one subject to another?

A. I never had any very long conversation with her. Her conversations generally were short. Of course, I was not interested in the lady, and I generally cut them short to get rid of her. She would stand an hour if I would, and keep me from working, but I would not do it.

Q. Was she inclined to sit and talk long?

379 A. She would frequently talk some time.

Q. Spoke to you about buying or leasing her property?

A. Yes, sir.

Q. Did she ask you for an offer, or what did she say?

A. She wanted me to take it, either to buy it or to lease it.

Q. How long was this before she died?

A. It would be some 3 or 4 years, along there; even before that, I think.

Q. After that did she ever say anything to you about it?

A. Not after that; no, sir. When I told her I did not want it, had no use for it, she seemed stupefied with that, and did not ask me any more.

Q. Did she ever come to your house and take meals?

A. She would come in the house occasionally; not very often.

Q. Ever take any meals there?

A. No, sir.

Q. Do you know whether she provided herself with fuel at her house before she sold her property?

A. I think the fuel she got mostly was what she picked up; she would come over to the shop and get what chips and stuff she could find; sometimes two or three times a day she would be in getting a basketful.

Q. What kind of language would she use to the boys?

A. She used to scold them and throw at them, and of course they would run. I can't say exactly what her language would be, because it was not often I was where I could hear what she would say.

380 Q. I suppose you did not hear her very often, did you; you did not see her to hear her talk often?

A. I saw her passing frequently, and she used to be in the shop sometimes two or three times a day, and sometimes I would see her and talk with her, and sometimes I would not be in.

Q. She came in after those chips?

A. Yes, sir.

Q. You would be no great companions?

A. Not particularly; no, sir.

J. WILKIE MOORE sworn for defendant.

Q. Where do you reside?

A. Detroit.

Q. How long have you lived there?

Ninth ward. I came here on the 1st of Nov., '33.

Q. You are not a Frenchman, I believe?

A. No, sir. My wife is. From three to four months I was at Monroe instead of here, and after that I resided here.

Q. Do you know Madame Louise Cuson?

A. That name I never heard. Charley——

Q. Mrs. Lawrence formerly.

A. I know her.

Q. Do you remember to have been at her house with Mrs. Bowen here?

A. I do.

Q. Was you ever there more than once with him?

A. No; but once, I think.

381 Did you have a conversation there with her with respect to what she knew of Miss Thebault?

A. We did.

Q. Will you state what she there said with respect to Miss Thebault's sanity or insanity; soundness of mind?

A. She said, Of course, Mr. Moore, I have known her many years, but I don't want to be a witness, honestly. I explained, I think, told her, it was necessary, for justice to be done, to get at the truth of things, and unfortunately we had to call upon women as well as men; and the lawyers pitched upon me to introduce their difficulty, I says, to get the testimony;

and then she appeared to be very willing, and stated that she was well acquainted with her.

Q. What did she say with respect to her soundness of mind?

A. She said—I think I can give you the words, if I think of it. I asked her if she thought she was sane or insane. Oh, Mr. Moore, she knew just as much as I do; no more insane than I or you.

Q. Did she say that she heard her speak about having conveyed her property to Jewell, and expressed herself satisfied with what she had done?

A. Yes, sir; she said she had heard her converse about the property. I think the young gentleman asked her if she had ever heard her converse about that property and giving it to Mr. Jewell; and she said
382 yes, she had heard her speak of it, and she spoke very kindly of Governor Jewell. She called him her father, because he had acted so kindly to her; used the word father.

Q. Did she say that Miss Thebault had shown her a dress which Gov. Jewell had given her?

A. She did.

Q. Did she say anything about having heard Miss Thebault express her dislike for Allore, the complainant in this case?

A. She did. She spoke very plain about that.

Q. Did she say anything about a man of the name of O'Flynn having been there with a paper which he wanted her to sign to the effect that Thebault was insane, and that she would not sign it?

A. I don't remember that.

Q. Did she say anything about having seen the evidence of Dr. Truedell?

A. Yes, sir; she did.

Q. You say Mr. Bowen was there with you at that time?

A. Yes, sir.

Q. Prior to '63 or prior to 1862, what was your business, and what had it been generally for a number of years?

A. Most of the days of my life I followed real estate, but the last ten or twelve years a little smattering in Government employ. All my life, mostly, has been in real estate, land-agency.

Q. Did you ever have any conversation with Miss Thebault about her property?

A. I have.

383 Q. About her selling it?

A. I have.

Q. Will you state when it was and what she said?

A. I don't know as I can give you just the time; my impression is it was between three and four years before her death; it was in the fall, and I believe it was in 1860.

Q. What took place?

A. I called upon her to see if she would sell the place.

Q. What conversation did you have with her?

A. She told me she was very willing to sell, that is, she wanted to sell, and I asked her her price and she told me.

Q. What did she say?

A. She said 6,500 was what she wanted.

Q. What else?

A. I offered her $5,000.

Q. What did she say?

A. It was not enough. She would live a great many years, and she thought the property was worth more. I went on to explain that it was

not, that the improvements were nothing; it was a little shanty-house she lived in, and no other improvements except a garden and some fruit-trees; no improvements of any kind, it was all vacant there.

Q. What did she say in reply to that?

A. It was not enough money; it would be worth more soon; she wanted $7,000 for it.

Q. But would sell it for $6,500?

384 A. Yes, sir. One end of it went to the river.

Q. Only a part of it?

A. Part of it. It was double width in front.

Q. When did you first know her?

A. I can't tell the date. Many years she 'tended the same church as my wife, and I would see her with her umbrella, but was in no way intimate with her. My wife knew her very well. My wife was born in the city, and is now sixty years old.

Q. How often did you meet her during her life-time?

A. Not very often. It is pretty hard to tell; probably half a dozen years as much as a dozen times a year.

Q. On these occasions of casually meeting her what conversation did you have with her, when you had any; what was it generally about?

A. Nothing, except she would go into church and inquire about my wife, and about her health, never about business.

Q. Except this one occasion?

A. No, sir; never had any other.

Q. From what you did see of her what do you say as to her capacity, whether she was of sound or unsound mind?

A. I don't think she was more unsound than any Frenchman, than myself; and when I say French, my father-in-law was French, of course.

Q. Have you a good deal of acquaintance among the French people?

A. Yes, sir; my father-in-law was French; a great many said wasn't he crazy for selling his farm for $8,000; two years after it sold for

385 $30,000, and after that it was estimated at three millions.

Q. How did she compare in intellect and capacity, in your judgement, with her class of people generally, from what you saw?

A. I think about the same as the majority of French; I mean by that the old citizens—they were not educated, or anything.

Q. Did she have her umbrella with her pretty generally?

A. I often seen her with a large umbrella going to church.

Q. Ever seen it up when there was no occasion for it?

A. I don't think she would use it without it rained or the sun was shining.

Q. Did you ever see her use it when it did not rain or the sun was shining?

A. I don't remember seeing her use it when it did not rain; I have seen her use it in the sun.

Cross-examination:

Q. Did you know this woman very well?

A. I have known her off and on, as I do most citizens, for a number of years.

Q. Did she come to your house?

A. No, sir; never saw her at my house. My wife was well acquainted with her, but she never visited her.

Q. You say she was no more strange or peculiar than the majority of French people?

A. Don't think she was.

Q. How did she dress?
A. Very plain; rather poor.
Q. Didn't she dress very poor?
A. I think she did rather poor.
386 Q. Didn't she always go round with a calico dress and this shawl?
A. I have often seen her with an old thin shawl when I thought she ought to have a thicker one.
Q. She had a good deal of property?
A. I never thought she was as rich as a good many thought.
Q. She had a good deal of property, and ought to dress better?
A. I don't know of her having any property except this that I meant to buy.
Q. She had property worth from $5,000 to $7,000?
A. I think it was.
Q. She always went round with a thin calico dress, didn't she?
A. I can't say she always did.
Q. Did you ever see her with any other bonnet than this old bonnet?
A. I don't know what bonnet has been described, but she always looked dressed very common to me.
Q. Do the majority of French people do that?
A. If I may tell out what I think, I remember Mrs. Vandyke—whether her friends are here or not—she dresses as plain as this woman, as plain as almost any woman I have seen; some French ladies are that way.
Q. She don't deprive herself of warm clothing?
A. No, sir; but she dresses very common.
Q. But not so as to suffer from cold?
A. This woman was no more plain in appearance than Miss Vandyke.
387 In proportion, do you mean, or any more at all?
A. Mrs. Vandyke I have no doubt dresses comfortable, but anybody see her who did not know her would think she was a very poor woman.
Q. Mrs. Vandyke dresses no better than Miss Thebault?
A. No, sir; she dresses very comfortable, I say, but very plain in everything; a stranger would take her to be a poor woman.
Q. Do you mean she dressed as plain as Miss Thebault?
A. She didn't dress so common, such cheap calico dresses, but she don't dress with costly dresses.
Q. Were you ever in Miss Thebault's house?
A. I have been.
Q. Do you know whether she had suitable fuel and comforts of life?
A. I can't say; she looked very poor.
Q. How did the house look as to that?
A. It was a shanty house, not much of a house.
Q. As to being comfortable inside?
A. It was.
Q. Exceedingly so?
A. Very common, very poor; there was not much in it, she was pretty much alone; I remember seeing a cat there; that is about all she had.
Q. What kind of clothing did she wear—a bonnet?
A. It was a very plain, common bonnet; there is a French woman in this city I have known over 30 years always has a straw hat.
Q. Describe hers, not in comparison with others.
A. The best of my impression, her clothing was very common,
388 and, as you say, I remember seeing her in a calico dress; whether

I seen her in any other dress I can't say; it was a very common dress, cheap-looking, poor.

Q. Did she wear the same dress in winter?

A. I don't think she dressed so thin in winter.

Q. How near did you live to her?

A. At that time my residence was on Grand River street, I should think from a mile to a mile & a half.

Q. You did not see her then very often?

A. No; my business was such that I am round a great deal not very often; from half a dozen to a dozen times a year to speak to her, and I might pass her and not take notice of her at other times.

Q. Did you have much conversation with her at these times?

A. No, not much; I often spoke to her, but not on any particular subject, no more than to ask her if she was going to church, and she would ask about my folks.

Q. Notice any peculiarities in her conversation, oddities in the way of talking?

A. I never did. If you should ask me if she was eccentric, odd, I might say she was, but I don't think more so than the body of Frenchmen when I came here.

Q. Did you ever notice anything about her person being filthy?

A. I never did.

Q. You think she was as clean as the majority of French?

389 A. I did not take her to be rich; I took her to be a poor person, and common.

Q. You have taken a good deal of interest in this case, looking up witnesses?

A. I have been looking up witnesses.

Q. Who employed you?

A. Mr. Meddaugh.

Q. Did you call upon other witnesses besides Mrs. Cusor?

A. Yes, sir.

Q. What others?

A. Mrs. Abbott—O. D. Abbott, Mrs. Bristol, I believe Mrs. Edward Cicotte; different ones. This same lady, Mrs. Lawrence.

Q. Did you call upon any others in her neighborhood?

A. Yes; Mrs. Abbott lived there, just below.

Q. How long ago was that?

A. Only a few months ago; I say months; I think two months.

Q. Not six months ago, was it?

A. No, sir; I don't think so long as that. Time passes rapidly, but I don't think it is as long as that.

Q. Do you remember distinctly everything that was said?

A. I can't say I remember everything, but I remember that that was said that I spoke of; I remember her speaking of Gov. Jewell; he is a man I don't know; somebody said that was him passed through the room a few minutes ago.

Q. Did you take down any minutes of what she said?

A. I did not myself; I believe the young man did.

390 Q. She said she did not care to testify in the case?

A. She hoped not. I explained to her it was sometimes necessary, and hoped she would not have to be; but sometimes, for justice to be done, people had to. She appeared to have, like most of the ladies, a very horror of coming into court. I think it is proper for me to say I look upon her as a very nice lady—a good woman.

Q. You have known her some time?

A. Yes, sir; knew her husband and daughters.
Q. You think she would tell what she supposed to be the truth?
A. Yes, sir; I think she is a very honest, good woman.

RAPHAEL LAMERI, (Mr. Dolson, interpreter.)
Q. Did you know Marie Genevieve Thebault during her life-time?
A. I knew her during a year.
Q. What year was that?
A. The last year of her life.
Q. How near did you reside to where she lived during that year?
A. Just the street between.
Q. How often during that time did you see her?
A. I saw her most every day; I was to work at the tannery, and passed right by her house.
Q. Did you see her during that time at your house?
A. During that time she came to my house some five or six evenings and spent the evening there.
391 Q. Did you ever have, during that time, any talk with her about selling her property?
A. Yes, sir.
Q. What was that conversation?
A. She said to me she was not well, and said if she found a chance she would sell her property.
Q. When was this?
A. Towards fall.
Did you say anything to her about conveying the property to you, and you taking care of her for life?
A. No.
Q. Did she say anything with respect to conveying the property to any one to take care of her?
A. Never did. She said she wanted to sell her property, and sell it to a rich person; and at that time I indicated Mr. Jewell to her.
Q. What did she say?
A. She said this man she did not know.
Q. Did she say she would sell it to a poor man or not?
A. She never wanted to sell it to a poor man.
Q. Did she say why she did not want to sell it to a poor man?
A. The reason she gave was that he might spend her property, and then she would find herself in the street, in the road.
Q. Do you remember the fact that she conveyed her property to Mr. Jewell afterwards?
A. Yes, sir.
Q. Did you have any talk with her after that about what she had done?
392 A. No, sir.
Q. From what you saw of her, the conversation you had with her, what is your opinion as to whether her mind was sound or not?
Being under oath, according to my judgement she had her common sense.

Cross-examination:
Q. What do you mean? Do you think she was sane as the majority of people?
A. I think she had her sense as common people.
Q. Was she not very odd and queer?

A. I didn't take much notice of her. I saw her going by, but did not pay much attention.

Q. Did you ever have any talk with her as to these conversations you had about the land?

A. No.

Q. Was you ever in her house?

A. No. When I first came to Detroit I was benighted, and went there, and knocked at the door, and asked if I could stay all night, and she said No; she was alone, and could not entertain persons.

Q. Are you at work for Mr. Jewell now?

A. Yes, sir.

Q. How long have you been in his employ?

A. Nine years this fall.

393 VICTOR THEBO sworn for defendant.

Q. How old are you?

A. 36 years old.

Q. Where do you live?

A. On the corner of 12th street and Lafayette.

Q. How long have you resided in Detroit?

A. I was raised in the city here.

Q. Did you know Miss Thebault in her life-time?

A. I did, sir.

Q. How long had you known her?

A. About 14 years, if not more.

Q. How near have you lived to her place during that time?

A. Just across the road, you may say; the same as I go across the road here.

Q. How long do you say you knew her?

A. About 14 years.

Q. When you first knew her she lived in the same place?

A. Yes, sir; in the same house.

Q. Did you know her down to the time she died?

A. Yes, sir.

Q. All the way up to the time she died?

A. I did, sir.

Q. During that time how often did you see her?

A. I saw her occasionally when I was going to my work; every day I saw her.

Q. Was she ever at your house?

A. She used to come evenings and mornings.

Q. About how often would you see her at your house?

A. I saw her most every other night; she used to come over.

394 Q. Did you have frequent conversations with her?

A. Yes, sir; she liked me pretty well, and she would come home and talk to my wife, and myself, too.

Q. Did you have conversations with her during this time—talk with her much?

A. She used every night, or every other night she used to be home, and sit down, and keep company with my wife; she had not much other place to go to; she knew us well.

Q. Whether you talked with her often?

A. I did when she talked to me.

Q. What did she talk about?

A. About business and selling her property; and that is all she said to me.

Q. How often did you talk with her about business matters and selling her property?

A. She used to talk to me every time I would come home, how much she could get for her property, & so on.

Q. At the time you first knew her what was the condition of her health?

A. When I knew her, she was not sick at that time.

Q. When you first knew her?

A. When I first knew her.

Q. How was her health along down to '63, generally?

A. Pretty good, for all I know.

Q. How did she dress?

A. She did not dress very good; always when I knew her she had always the same dress; not much different with her dress at all.

Q. How did she dress with respect to cold weather?

A. She dressed according to what she had.

395 Q. Was you in her house during that time any of the time?

A. I was.

Q. Whether she had good clothing or not in her house at all?

A. That is a thing I don't know.

Q. Did you ever see any?

A. No, sir.

Q. What do you say as to her mind when you first knew her, whether sound or not?

A. I guess she was sound as I was.

Q. What do you think about it, sound or not?

A. Sound mind, she was.

Q. She was?

A. Yes, sir.

Q. What do you say as to her knowing enough to take care of her property, to deal with it?

A. Of course she had sense enough to take care of her property.

Q. Did you see her down to the time she died?

A. No; I was not in.

Q. All along?

A. I saw her before she died, occasionally.

Q. Do you remember the time she made a deed of her property to Jewell?

A. I do.

Q. Did you have any talk with her about that before her death?

A. I did, sir.

Q. Will you state what that conversation was?

A. I will tell you. She was home one morning about six o'clock.

Q. At whose home?

A. My home.

396 Q. Came to your house?

A. Yes, sir; six o'clock in the morning; and I just up and made a little fire, and when I got a little fire made she sat by the stove. She sat down, kind of thinking; I don't know what she was thinking. Then, after a while, she told me, "I have got to make a better living than I did before;" and so she let on she wanted to make a bargain with Mr. Jewell, and told me she wanted to see Dolson and make a bargain.

Q. What did she say she wanted to do?

A. That is what she told me. She wanted to see Dolson, and I went up and told him.

Q. Did you see her after she had sold the property to Jewell?
A. I seen her when she would come to our house.
Q. Was she at your house after?
A. She was not home, at his home, for a good while. I did not see her after that.
Q. You saw at her house afterward?
A. Yes, sir.
Q. Did she say anything about what she had done?
A. No, sir; nothing to me.
Q. Didn't talk about it?
A. No.
Q. Did she talk with you in French or English?
A. French.
Q. Did you ever see her with an umbrella?
A. She had a damn poor one.
Q. Did you ever see her carrying it?
A. She had an old one. I saw her once in a while. When it was raining hard she would carry it.

397 Q. Ever see her with it up when it did not rain or did not shine; did you see her with this umbrella spread and going along the street?
A. No, sir.

Cross-examination:

Q. Who do you work for?
A. P. Jewell & Son.
Q. Work for them now?
A. Yes, sir.
Q. How long have you been to work for them?
A. About 20 years—more too.
Q. This woman was very intimate at your house?
A. She was a great friend to us; liked to come to our house.
Q. How many times a day?
A. She used to come most every other night; she would come and talk to my wife and myself.
Q. Do you mean most every night—do you mean at the close of most every day?
A. She would come at night. Most every other night she would be home, and sometimes she would come in the day and sit down with my wife. When I come to dinner she was to my house.
Q. I don't know now whether you mean she came every other day or every day.
A. Every other day.
Q. Come one day and then skip a day?
A. Yes; did not come every day.
Q. Take meals there?
A. Once in a while.

Q. About how often would she take meals there?
398 A. She might take two or three meals in a week.
Q. Did you ever say anything to your wife about not caring to have her take meals there?
A. No; I never said anything to her about it.
Q. You say she would generally be there every other day. Was there ever any time along during that time that she did not come?
A. There was sometimes she did not come for a few days. A while

back she would come most every other night; she did not come regular every day.

Q. She never was away very long?

A. Not very long.

Q. Not more than three or four days at a time?

A. Not much more than that.

Q. You remember well about it?

A. Yes, sir; I do.

Q. You are positive of that?

A. Yes, sir.

Q. Positive she used to take meals there three or four times a week?

A. To the best of my knowledge she did.

Q. You used to see her taking meals very often?

A. When I was not there, of course, I did not see it; my wife told me.

Q. You saw her sometimes?

A. Yes, sir; I saw her sometimes when I was there.

Q. How was it about the time she sold? Was she sick then?

A. She was not sick when she sold.

Q. She was not well then?

A. Well enough looking to me; she was well.

399 Q. Did you ever see her after that time?

A. No; I did not see her much after that time. I was in the house once or twice.

Q. Did you see her when you was in the house?

A. I did.

Q. How often do you think you saw her from the time Mr. Jewell bought the property until the time she died?

A. I can't tell; I saw her so often. I can't recollect how many times.

Q. How many times would you say?

A. I say I don't recollect.

Q. About how many?

A. She was there often. That was her own place pretty near up to my house, and another neighbor of mine—she used to go there.

Q. You say she dressed according to her means?

A. Yes, sir.

Q. She had property?

Yes, sir; she had property, only she did not dress up for all that.

Q. She had property and could dress if she chose to?

A. Yes; if she felt like it she could have better clothes.

Q. Was she stingy?

A. Yes, sir; she was kind of stingy; she was pretty near naked in winter-time and cold.

Q. Have any fuel in the house?

A. Sometimes she had and sometimes she had not.

Q. Go very cold generally?

A. Sometimes she was pretty cold.

Q. How did she use to talk; what sort of a way?

400 I don't see no difference about her talk; she had all the time the same kind of talk.

Q. Nervous, excitable?

A. No, sir.

Q. Ever see her fiddle?

A. No, sir.

Q. Ever hear her say anything out of the way?

A. No.

Q. Always talked right?
A. Yes, sir.
Q. This was about six o'clock in the morning you talked with her about the property?
A. Yes, sir.
Q. What time of the year was it?
A. We had light snow at the time, and it was pretty cold, and I got up to make a little fire, and when I opened the door she came in. I says, "Hallo, Miss Thebault." Says I, "Are you cold?" Says she, "Yes." Says I, "I will make a little fire and you can warm yourself."
Q. Why didn't she come in after she sold her property?
A. I don't know.
Q. Was she well enough to come, or was she sick?
A. She would take a notion sometimes; she would not come for a day sometimes, and then she would come regular.
Q. She lived two or three months after that. That was a long time, was not it? Did your wife think it was strange she did not come? What did your folks think?
(Obj. to.)
What did you say or think?
401 A. I did not care whether she came or not, because sometimes I was bothered, and sometimes she would get a spell and would not come, and sometimes she would not go; according to how she would feel.
Q. She was a good deal of a bore to you sometimes?
A. She was often home.
Q. At your house?
A. Yes, sir.
Q. What way did she bother?
A. She did not bother, but I did not like to be talking about property. I did not have no property myself. I told her sometimes "Why don't you live better than you do live, and sell your property?" That is the answer I gave her when she spoke to me.
Q. Did she ever talk to you about any other things?
A. No, sir.
Q. Talk to you about the troubling of the boys?
A. No, sir; my boys never troubled her at all.
Q. All the while talking about the property?
Yes, talking about the property and making conveyances.
Q. About selling the property?
A. Yes; she had talked, and she never sold them times.
Q. What meals did she use to take there, dinner & supper?
A. Yes; she would come home at supper-time and in the morning sometimes; more often at night she would come home.
Your wife swore she never took a meal of victuals in the house; you are positive she did?
A. She did.

402 FRANK THEBO:

Q. Where do you reside?
A. On the corner of Twelfth and Lafayette.
Q. How long have you resided in the city of Detroit?
A. I was born here.
Q. How old are you?
A. I shall be 43 the 28th of next month.

Q. Did you know Marie Genevieve Thebault in her life-time?
A. I did.
Q. How long had you known her before her death?
A. About 15 or 16 years.
Q. During that time how near had you resided to her?
A. Lived right across the road part of the time.
Q. What portion of the time?
A. About, I guess, 3 years.
Q. What years were those?
A. That would be 20 years ago. I remained there two years.
How near did you reside to her for the last two or three years before she died?
A. I lived within, part of the time, about a mile and a half from her, and the other portion of the time about half a mile.
Q. Where were you employed during these years?
A. Dolson's tannery.
Q. How near were you to where she lived?
A. The adjoining place.
Q. How often did you see her during that time?
A. I seen her occasionally every day, sometimes two or three
403 times a day.
Q. I need not ask you if you speak French?
A. I do, sir.
Q. Whether you talked with her during that time more or less?
A. I did; every time she got a chance to talk to me, the old lady would come and talk with me.
Q. What did she talk about largely?
A. At that time she would talk about her wants, of course, to me.
Q. What did she say?
A. She would always have some favor to ask of me.
Q. What generally were her wants, and so on?
A. At the first, when we came, she was docking her place to keep the dirty water off.
Q. When was that?
A. That was 21 years ago, when I was first there; and I did it for her, the most of it.
Q. Did she ask you to do this?
A. Yes, sir.
Q. You docked it out for her?
A. Yes, sir.
Q. From that time forward what were your conversations with her generally?
A. She would come over and want a little wood. That she would come pretty often for. I always tried to procure a little for her.
Q. How often would you have conversations with her about that?
A. She was most every day begging wood.
404 Q. During that time did you have any talk with her about her property?
A. No, sir; not during this time.
Q. Did you ever have any talk with her about her property?
A. No, sir; not until the last day I was there.
Q. When was that?
A. I think it was in January, 1863. I think it was on the 27th or '8th. I would not be positive. I know it was in the latter part of the month. I was sent in by Mr. Dolson to build a fire in the morning. I went in and was starting a fire, and the old lady uncovers herself and

says to me, "Is that you, Lambert?" I says, "Yes." I kept on building the fire, and says she, "What do you think of my fire?" I didn't really know what the bargain was. She then told me the transaction as it occurred with Jewell. Says she, "Jewell is to pay me $500 a year as long as I live;" and says she, "I have got good security against the place that he should do so." I then told her, "Why don't you sell out and out and get your money?" Says she, "I will tell you my reason and then you will see. We will suppose I had sold out to Mr. Jewell and got my money, and I would take and deposit it at the bank; and if the bank would break where would my money be and where would I be? You recollect Mr. Lisle, what quantities of money he had from poor people, and I might be caught in the same situation; but if I lose a year's
405 income, I know the next year I have as much more coming."

I hurried up my fire. I did not like the smell of the house very well, so as soon as I got the fire made I put off. That was the last conversation I had with her.

Q. How long was that before she died?

A. Six or seven days before she died.

Q. You went in in the morning to build the fire?

A. Yes, sir.

Q. And this conversation occurred?

A. Yes, sir.

Q. You say during all these 20 years you was there you had talks with her; she came and wanted things?

A. Yes, sir.

Q. Will you state from the conversations you had with her, and all you know about her and saw of her, what is your opinion as to whether she was sound of mind or not?

A. Miss Thebault was just as sound of mind as I am myself. I don't class myself a first-minded man, probably, but I considered she was just as good as I was; she was a woman very close, she would cut a cent *into* and keep the other half if she could; but, in regard to her mind, in fact her mind was as strong as anybody's, but she had this peculiar way of doing; she was so tight it did form an opinion in some people's impression she was an uncommon woman.

Q. How did she dress?

A. She dressed very poorly.

Q. How was she about her person as to neatness or otherwise?

406 A. That I won't undertake to say anything about, for I don't know.

Cross-examination:

Q. Whose employ are you in now?

A. Mr. Jewell's employ.

Q. You say you had known Miss Thebault for 15 or 16 years?

A. Yes, sir.

Q. Have you been in their employ all the time?

A. No, sir; not all this time.

Q. How long have you been?

A. Something like 10 years I have been in Mr. Jewell's employ.

Q. What did she use to say about her wants?

A. Just as I suggested, she would want a little wood; and as I suggested about her docking, and she would occasionally come, and she did ask me to fix her clock.

Q. She had property here. Did you advise her to buy her own fuel or get her own things, say anything to her about that?

A. I did not.

Q. Was there anything peculiar about her language if she got angry, if you said anything she did not like?

A. No, sir; she was always on the best of terms with me. I can't say anything about her angriness.

Q. Did you see her pretty often?

A. Every day, occasionally.

Q. All this time?

A. All this time I was there that I told you about.

Q. You say she had a good many favors to ask?

407 A. Yes, sir.

Q. Was that in regard to things about the tannery there? She went to talk about wood?

A. About wood and about her dock was the favors she was asking, wood more so, because that she would want pretty often.

Q. Did you ever notice anything peculiar about her?

A. I did not. I seen she was a woman very close, as I just now suggested *just now*. She was a woman would cut a penny in two to take the other half.

Q. Didn't you think that was a little peculiar for her to live in that way when she had property?

A. I did not believe she had as much money as people said, and I kind of pitied her, because she came frankly to me and told me for all that she had a good deal of money, and I believed her.

Q. Ever advise her to sell it?

A. No, sir.

Q. You was on confidential terms with her?

A. I was, and I always knew my place in a matter of this kind.

Q. Didn't she advise with you about business?

A. No, sir; not about business.

Q. Never talked about her lot there?

A. As I told you, about her wants.

Q. About her lot there, she never talked about that, did she?

A. No, sir.

Q. Never alluded to it?

A. Not any.

Q. And you never advised her to sell, or to live more comfortable, or get her some clothing or fuel?

408 A. I did not.

Q. Nothing of the kind?

A. No, sir.

Mrs. M. A. BRISTOL sworn for defendant.

Q. Where do you reside?

A. On the corner of Second & Leldon, Cass farm.

Q. How long have you resided in the city of Detroit?

A. Always; I was born here.

Q. What was your maiden name?

A. Brevoort.

Q. Daughter of Major Brevoort?

A. Yes, sir.

Q. Did you know Miss Thebault in her life-time?

A. Yes; I knew her?

Q. When did you first know her?

A. When I was quite young.

Q. About how many years ago?

A. 40 or 50 years.
Q. Did you live near her?
A. Not very near, not very far; we lived where the new gas-works are now.
Q. On the river road?
A. Yes, sir; and she lived near the tannery there.
Q. How long did you live there?
A. I came there when I was about 10 years old.
Q. How long did you reside there?
A. 40 years; we were away a short time, but came back there. My father was at Green Bay six years, Indian agent.
409 Q. During the time you lived there where did Miss Thebault live?
A. I don't remember that she lived anywhere but there.
Q. Near the tannery.
A. Near the tannery. I know she lived there many years, a long time.
Q. While you were living there by the gas-works how often during that time did you see her?
A. Once in a while I would see her passing, and I would meet her on the street going to church, and sometimes going from the city or coming to the city.
Q. Did she visit your house any during that time?
No; she did not visit our house and I did not visit her. I knew who she was, and always talked to her.
Q. Used to see her at church and on your way to church and from church?
A. Yes, sir.
Q. Frequently?
A. Yes, sir.
Q. During the latter part of her life did you see her?
A. I saw her the day before she died.
Q. How long before that had you seen her?
A. I can't tell exactly; perhaps a month or two.
During that year, before she died, about how many times do you think you have seen her?
A. Five or six times.
Q. Where did you generally see her?
A. In the street.
Q. What was your habit when you met her in respect to talking with her?
410 We always used to have a chat. She would talk about old times and changes and one thing and another.
Q. How long was you with her the day before she died?
A. About an hour. I understood she was sick and I called in.
Q. Did you have any talk with her then?
A. Yes, sir. I met Dr. Pitcher coming out as I went in, and she was up walking, and I thought she could not be very sick; but she went to bed while I was there, and I asked her if she was very sick, and she said yes, she was quite sick, and she did not have much care; if she had something she could eat, something she liked, she thought she could get well. I asked her what she liked, and she asked me if I could make pies. I said yes, I would go home and make some. She said "Not to-day, but to-morrow at dinner-time." I went home and made the pies and returned next day about 12 or 1 o'clock, and I saw several persons outside when I came, and I went in & she was dead.

Q. From what you saw of her what is your opinion in respect to whether she was a sane or an insane person?

A. It never entered my mind she was insane.

Q. What were her habits generally as to her conduct, whether an odd or peculiar sort of being?

A. Kind of odd and very stingy, they said; had the reputation of being very rich, but I don't think she had anything—was a poor woman.

Q. She was reputed to be stingy?

A. Yes, sir.

Q. How about her person, as to neatness or otherwise, while she was living?

A. She was poorly clad when I met her, always.

411 Q. How did she compare in her mind with the great majority of people of her education, in your judgment, as to the brightness of her mind?

A. I never heard anybody say.

Q. I mean your own opinion, from what you saw of her?

A. I never thought she was unsound; I thought she was all right.

Cross-examination:

Q. You speak about her clothing. What sort of clothing did she wear?

A. When I saw her she had a faded calico dress and cotton shawl.

Q. That cotton shawl has been spoken of here before. Is it not true she wore that same 20 years or more?

A. I don't know. She dressed pretty much the same when I saw her.

Q. Did you ever see her have anything else but a cotton dress or a calico?

A. No, sir.

Q. Was she dressed suitably warm in the winter weather?

A. I never saw her dressed very warm. I saw her have those things on her. I don't know what else. She looked very cold; cheaply dressed.

Q. She dressed the same, winter and summer?

Q. Yes. I have seen her very late, and whenever I saw her she was dressed the same. She always carried an umbrella, winter and summer. It didn't matter whether it snowed or rained.

Q. And in fair weather, too?

A. Oh, yes.

Q. That seemed to have been a sort of habit with her?

A. Yes, sir.

412 Q. Did she have it spread, generally?

A. No. She had it spread when the sun was hot, or when it snowed or rained.

Q. Did you ever notice her having it spread when there was no particular occasion for it?

A. No.

Q. What sort of a bonnet did she wear?

A. A Shaker.

Q. Pasteboard?

A. Yes, sir. Cheap Shaker.

Q. Did she wear that, winter and summer?

A. Yes, sir.

Q. Wear that all her life?

A. When I saw her.

Q. I did not really gather, from what you said, you knew her pretty well, or whether she was a person you spoke to when you passed?

A. I never visited her and she did not visit me, but whenever I met her we always spoke.

Q. You don't know how she lived or provided for herse'f?

A. No, sir.

Q. Were you ever in her house before this time?

A. I don't believe I was in there but once. I think one of the Campans—Mrs. Lawson was her name—was stopping with her a short time, and I called while she was there. Edward Campan's sister. They say she is crazy. I don't know. She is on the Gratiot road somewhere.

Q. Did you see her after she was laid out or dead?

A. Yes, sir.

Q. Did you notice vermin upon her?

A. Yes, sir.

413 Q. Did you ever notice that before she died?

A. No, sir.

Q. It is stated she was very uncleanly in her person, towards the last of her life particularly. Was not she very untidy?

A. Whenever I met her she did not look so. I never took much notice. She always looked the same to me; she looked clean. Her clothes were poor, & faded, and old, but clean.

Q. The day before she died you seen her. Is there anything to fix it in your mind how it was before that you saw her?

A. I suppose two or three months. I don't remember exactly.

Q. What season of the year was it?

A. I don't remember. In the summer, some time. Was it not in September she died?

A. No; the 4th of February. What was the state of her health at that time?

A. She appeared to be well; she did not complain.

Q. Do you know of her being sick the year previous to her death?

A. No; I didn't hear anything about it until a few days before she died, and I went to see her. A great many had an idea that she had any quantity of money; but the way she lived, or the way I heard she lived, I would not think she had much.

Q. You knew she had this property?

A. Yes, sir.

Q. Did it strike you a' strange that she should live in the way she did if she had property? Did it ever occur to you, or did you ever talk to her about it?

414 A. No, I never said anything to her about it. All had an idea she was very stingy, very close.

Q. She was always very odd—queer?

A. Yes, sir.

Q. Was she eccentric about her talk or actions; her manner, was it nervous?

A. No; not when I saw her.

Q. How did these peculiarities show themselves more particularly?

A. She would talk and tell how different things were and how they used to be, and that they did not have things now as they used to have. Everything was not as good as it used to be, and not as cheap, and talk like that.

Q. I suppose you did not see her very often.

A. No, sir.

Q. Did she ever talk about ghosts at these times?

A. No, sir. I have heard other people tell about it, though.

Q. It was on the street when you did see her?

A. Yes, sir; I met her on the street.

Q. Wasn't it a fact that she was much more peculiar and queer and eccentric than most people?

A. She was odd in her looks and ways.

Q. More so than the majority of people?

A. Yes, sir.

JOHN T. LADUE sworn for deft.:

Q. Where do you reside, and where have you resided?

A. In Detroit.

Q. Born here?

A. No, sir.

415 Q. How long have you resided here?

A. 24 years.

Q. Did you know Miss Thebault in her life-time?

A. Yes, sir.

Q. How long have you known her?

A. I knew her from the fall of 1860 until she died, in Feb'y, '64.

Q. During that period how often did you see her?

A. I should think I would see her, perhaps, twice a week.

Q. During all that time?

A. During all that time.

Q. Had you ever seen her before '60?

A. I don't recollect seeing her before.

Q. Where did you first see her and under what circumstances?

A. I saw her up at the office.

Q. Where is that?

A. Where the city hall now stands, on the Campus Martius. It was in Mr. Eldor's office. She used to come there frequently.

Q. On what business?

A. Eldor had rented a building of her on a lot adjoining this tannery, and she came there to collect rent.

Q. During the time you were at Elder's how often would she come?

A. She would be as often, perhaps, as once a month; perhaps oftener.

Q. Hear her conversations with Elder on these occasions?

416 A. Yes, sir.

Q. Her business was to collect rent of Eldred?

A. Yes, sir.

Q. State whether you heard considerable of her conversation.

A. The conversation was mainly in French—Mr. Eldred spoke in French—and I could not tell what they were talking about, but she could speak English enough so that I have had several conversations with her when she was waiting for Mr. Eldred.

Q. How was it with reference to Mr. Eldred's paying rent promptly?

A. The latter part, under his circumstances, he did not pay promptly.

Q. Whether you had conversations with her about that on different occasions?

A. Yes, sir; she used to say to me that Eldred treated her badly. He was a rich man, and she thought he took advantage of her being a woman, and latterly Eldred used to avoid her, and she very soon learned that, and when she thought it was about his time to be round she would get out of the way. I recollect on one occasion she got behind a wardrobe perhaps two feet wide, and as Eldred came in she stepped out, and he was very angry, and they had an angry discussion in French.

Q. He got behind in his rent?
A. Yes, sir.
Q. When was it you moved down to the present tannery?
A. We did not move our office down there until after she was dead.
417 Q. You kept your office up town?
A. Yes, sir.
Q. How was it with respect to your business—your presence down there looking after business?
A. I used to visit the tannery every day.
Q. Whether on these occasions, and from the time you started the tannery down there, you saw her, and if so, how often?
A. Yes, sir; I don't think I saw her oftener than perhaps once a week when she would be about the premises; I have seen her on the premises.
Q. Ever talk with her?
A. I went to see her in her house on one occasion.
Q. When was that?
A. After these papers were executed to Gov. Jewell.
Q. About what time was that?
A. I should judge that was perhaps six weeks before she died.
Q. Did you have any conversation with her on that occasion?
A. Yes, sir; it was a general conversation. I went in to see her; I think Mr. Dolson asked me if I did not want to. I said I was not particularly anxious, but guessed I would. She asked me to take a seat by the stove, which I did, and I had a general talk with her; nothing special. I don't remember anything only asking about her health; she was generally pretty good-natured, and she said she had a cold, but thought she would be all right in the spring.
418 Q. From what you saw of her, from the time you first knew her to the time of her death, what impression did she make on your mind with respect to her mental capacity?
A. I thought she was very keen so far as her own intellects were concerned, and her knowledge of property, and everything of that kind, and very miserly; that was my impression. I thought from what I had seen of her she was very miserly and close, but I never had any other thought except that she was bright in her intellect.
Q. How was she as to her manners and general conduct in life—whether peculiar?
A. I did not think she was different from other French women I have seen about here ever since I have lived in Michigan. I never noticed anything about her particularly striking except her manner of dress; she was always dressed about the same, but she never did anything or said anything that would astonish me at all, or make me think she was different from other people in her society.
Q. Whether you noticed that ubiquitous umbrella?
A. I noticed it often; whether she carried it always or not I can't say; when I seen her with it—I don't know as I ever saw her in a rainstorm or in the hot sun—it would be mostly in the evening I seen her, and as she started out it would be generally tied up either with a strap to it or a string; whatever she tied it with, it bulged out generally; I have seen her with it.
Q. What is your relation to Mr. Jewell?
419 A. I am a brother-in-law of his.
Q. Were you at the time the deed was obtained?
A. I was a partner with Marshall and agent for P. Jewell & Sons.

Q. State what interest you had in the purchase of this property.

A. At the time I had no interest after the papers were executed, but Jewell says to me: "P. Jewell compose, as you know, my father and my two brothers and myself; then the firm of S. T. Ladue & Co'y is myself and yourself; now you understand what arrangement we have gone into with reference to this property adjoining the tannery; do you want to share it?" I hesitated some. "Well," I said, "I don't know anything about the arrangement of this question." Says I, "How long is the old lady going to live?" He says, "You can tell as well as I can." Says I, "If she lives 10 years, it will cost more than it is worth." Finally he said his father or his brother would not want to go into the arrangement at all.

Q. What was ultimately done?

A. S. T. Ladue & Co'y to' one of the lots & P. J. & Co. took the other.

Q. Whether you have any present interest?

A. No, sir; I sold my interest soon after that to P. Jewell & Sons.

Q. When was that with reference to the time of her death?

A. I should think that perhaps was a year subsequent to her death; I am not certain.

Q. What was the value of that property at the time, in your judgment—at the time it was purchased by Jewell?

420 A. Mr. Jewell and myself both thought it might be worth five or six thousand dollars; I thought five; my impression was that the long lot running to the channel-bank might be worth three and the other two.

Q. How much of it runs to the river?

A. The two lots are less than a hundred feet front on the street; one, I think, is fifty and the other forty-eight, and one of the lots run' to the channel-bank, which I don't know; there is a hundred feet on the street, less one or two, & fifty on the river.

Q. What was the condition of the property at the time you took it with respect to dockage?

A. There was no dockage there at all; the distance from the road to the water's edge might have been a hundred and fifty feet, perhaps; no improvements on the property.

Q. What were the buildings on it?

A. There were, I think, two, if I recollect right—a one story & a half.

Q. A new building?

A. No, sir; an old building.

Q. What were the buildings worth that were on it?

A. Might have been worth $100; they were torn down and thrown away.

Q. After her death?

A. Yes, sir.

Q. What is the condition of the property now with respect to the improvements on it—in the first place as to docking?

A. The lot running to the river is entirely spiled, docked, and filled in; the other one is filled up as far as we could—as far as our own

421 line extends; we have our office, our hide-house, our ice-house, our sheep-skin factory, our carpenter-shop, and piles of bark, &c.

Q. The improvements made upon it since the conveyance, what do they amount to in value; what have they cost?

A. I should think they were worth more than we considered the land worth originally. I should say the improvements on it to-day are worth $7,000 to $10,000; cost us that.

Q. Come back again, then. Do you know anything about the giving of this deed; did you have any talk with her about it at all?

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A. I should think they were worth more than we considered the land worth originally. I should say the improvements on it to-day are worth $7,000 to $10,000; cost us that.

Q. Come back again, then. Do you know anything about the giving of this deed; did you have any talk with her about it at all?

A. I did not.
Q. Were you present when the conveyance was made?
A. No, sir.

Cross-examination:

Q. What was your interest in this partnership of S. T. Ladue and Company; what proportion, what share?
A. Half; we were equal partners.
Q. When was this conversation you had with Jewell with reference to taking this property?
A. I think it was the afternoon of the day the papers were executed.
Did you ever get any title-papers to that property?
A. No, sir.
Q. Nor J. T. Ladue & Co'y?
A. No, sir; no name but Marshall Jewell.
Q. Merely a verbal arrangement between you & Jewell?
422 A. Yes, sir.
Q. How soon after did you part with your interest in J. T. Ladue & Co.; part with their verbal arrangement?
A. My recollection is perhaps a year. I don't recollect. Some time after—I should think about a year after—her death.
Q. You never had entered upon the possession of that property, that is, J. T. Ladue & Co'y?
A. No, sir; I had possession of it for Marshall Jewell, as agent for P. Jewell.
Q. But for yourself?
A. No, sir.
Q. You closed out your interest, your verbal interest, about a year after?
A. Yes, sir.
Q. How much did you receive for that interest?
A. $1,500.
Q. Simply for that verbal talk, for that verbal arrangement?
A. Yes, sir.
Q. Jewell paid you $1,500 for you to release to him on that arrangement?
A. Yes, sir.
Q. And to let it stand as it was?
A. Yes, sir; the deed was originally taken in Marshall Jewell's name.
Q. By these means you got a claim to it for the firm, and you realized it afterwards to let it stand as it was?
A. I may as well state this, that in this arrangement when we
423 agreed J. T. Ladue should assume one of the lots, we were to pay our proportion of the original money that was paid Miss Thebault, and we did it.
Q. Were you to take the short or the long lot?
A. The short lot.
Q. For your half you were paid $1,500?
A. Yes. I made my own price in that; I would state Jewell and myself about such matters, as I have been his agent, and he says, "What you think is right we will take and charge it on the books."
Q. I presume that property, of course, by improving it and getting it in shape, was much more valuable than lying dormant, was it not?
A. Of course.
Q. As she occupied it, it was used to much advantage, was it?

A. I don't know that it was used at all, except for Dr. Eldred and an ice-house; he had it rented.

Q. How much rent did he pay?

A. I don't know; I guess so much a month. I guess it was not a great deal.

Q. You have interested yourself largely in this case, and looking up testimony and acting for Jewell?

A. I have been.

Redirect:

Q. Mr. Jewell does not reside here?

A. No, sir.

Q. He resides in Hartford; does not spend any time in the city?

A. No, sir. Visits here occasionally.

424 Q. How often has he been here?

A. It is a year next month since he has been here; he is sometimes here twice a year.

Q. How long does he stay when he comes?

A. Never more than five or six days.

Q. Up to the time of the commencement of this suit, whether you as the agent of Mr. Jewell had received any notice from Allore of his claim upon this property?

A. Not at all.

Q. Neither written or oral?

A. Never.

LEVI E. DOLSEN sworn for deft.

Q. How long have you resided in Det.?

A. Some 56 or 57 yrs. in the county of Wayne; not in Det. so long.

Q. In the city about what length of time?

A. Pretty much all the time since '27. I resided some before that, but not consecutively.

Q. Did you know Miss Thebault in her life-time?

A. I did.

Q. How long had you known her prior to her death?

A. I have known her personally, perhaps, since '28 or '29; known her by sight before that.

Q. During the time you knew her were you engaged in business in the vicinity where she lived any considerable time, and if so, for how long?

A. I was engaged in business some 5 yrs. I owned the present tannery that Jewell keeps. It was joining her residence.

425 Q. How long were you the owner of that property?

A. About 5 yrs.

Q. Did you carry on business there during that time?

A. I did.

Q. She lived on this lot in question?

A. Yes, sir.

Q. After that, whether you continued in business there, either for yourself or others, and if so, how long before her death?

A. I have been in business on that lot since 1850, with the exception, perhaps, from the 15th March, '62, until the month of Nov., '62. That is, I was there every day.

Q. Prior to your going there in business what had been your acquaintance with this woman? I mean how often had you seen her, and what had been your opportunities to observe her?

A. When I was an apprentice, in '28 or '29, along those years, I boarded with a Mr. Defoe, who was a Frenchman, and his wife, an American. I became intimately acquainted with her at their house; she used to be in frequently.

Q. How long did that continue?

A. I think until '32, perhaps longer.

Q. And then from '32 forward, what did you see of her?

A. It was about the years '32 or '34. I did not see much of her. Still I would occasionally.

Q. From that time forward, down to the time you went into the tannery, what did you see of her?

426 A. From '34 to '50 I saw her occasionally, not so often. She has been to my house frequently. I was superintending the tannery in Hamtramack from '36 to '37, along up to '51. I think she used frequently to go up and get leather of me to make shoes.

Q. And from that time down to '50 you saw her occasionally?

A. From that time there may have been a year I don't recollect seeing her—the year '42, because I was that year on the farm I owned in Oakland Co., tho' I was part of the time in here currying for Eldred. I should think likely in the year 1842 I may not have seen her. After that I have seen her along frequently, I cannot say exactly.

Q. Come to the conveyance of this property to Jewell. It appeared in testimony last night one witness, Thebault, was requested by her to say to you she wanted to make some arrangement with Jewell for this property. Will you state whether you got that message and called to see her persuant to it?

A. Yes, sir; I recollect M. Victoria Thebo stated to me that Miss Thebault wished to see me.

Q. If you will, please state in your own way after you got that message whether you saw her, and all you can remember took place between you and her with respect to it—what you did, in your own way.

A. I went in to see her according to her own request.

427 Q. What time was that; do you remember?

A. I should think it was about the 22 or 23 of Nov., '63.

Q. Then proceed.

A. I went into her house and had a conversation with her. She said to me that she had something to say; she wanted to make arrangements with me to take her to my house; she wanted to live with me; which proposition, by the way, had been made before frequently to me. I told her that I could not do; that my wife had no more house-room than she wanted, and I could not take her to my house. She said to me that she was in destitute circumstances; that she had not the money that people supposed she had, and that she wanted to make some arrangement. I told her at that time—I asked her at that time why she did not give herself away to her nephew, this young man here—I was not acquainted with the young man then—whether it would not be better to give herself away to him; he is all the relative you have that you know anything of. She said, "You know what my opinion is in reference to that; that I will not do." And she said that the young man had married against her advice, and also that the property of her sister had been spent, a good deal of it, by him. These were the main objections

428 that she made. I then told her I could sell her property for her, and she could get the money and put it out at interest, and live better upon the money than what she could any other way; the interest of the money would be sufficient to support her. Says I, "You say Cicotte offered you $6,500 for the property, & I think you had better sell it and put

it out at interest." She said no; the property was worth, she thought, $9,000. But after a conversation of this kind she says, "I would like to dispose of it. I would rather dispose of it in the old French way; that is, give myself away to some one who will take care of me," that being the French custom. She said, "I would rather do that than any other way; I will not be troubled with having mortgages and losing money," &c. I said to her, "Mr. Jewell, who owns this tannery, I think would be glad to buy your lot; and if you wish I will see him in reference to the matter, & I see what you can do with him." She said she would not sell her lot. In fact, she said she would not sell it at all; she would give herself away in this way. In the course of the conversation, however, (we continued to talk on the subject,) she said to me, no. I said to her, "Now," says I, "Miss Thebault, you have been living here in this way a number of years; it has been very foolish for you to do so. You recollect in '54 or '5 I rented this land to a man in Pt. Huron for
429 five years for you, and when you came to make out the papers you refused it. Now," say I, "you lost a great deal of rent, and you have been living very miserably and poorly, and I think you ought to do something different; either have an income, or else give yourself away the way you speak." She said finally she wished she had what I got before in the disposition of the land for her. Then after that I asked her, "What will you take a year for the premises during your life-time; how much?" Says she, "Four hundred per year." I said to her, "That is not enough to support you." "Well," she says, "how much do you think you can get?" Says I, "I think I can get five hundred ($500) a year." "Well," she said, "Mr. Dolson, if you can get me $500 a year for the premises, I will be very happy to dispose of it." Says I, "I will try to do so." That is my conversation with her.

Q. What did you then do?

A. I went up to Jewell.

Q. I will ask you right here whether you had any talk with Jewell about getting this property from her?

A. I had not, not at that time; but at the time that property had been bid off by Jewell—it was sold at auction, I think in Nov., '62—Jewell made the remark to me——

Q. What property?

A. The tannery. It was sold from Hunt. Eldred and Jewell
430 bid it in. I recollect at that time Jewell made the remark to me, "I wonder if this lot alongside could be bought or rented." Says I, "It would be a very difficult matter." "For," says he, "we may want to extend the tannery." That was the conversation. That made me suppose he would be willing to enter into some kind of an arrangement for the land. The fact is, we were somewhat crowded for room. I went up to the office and introduced the subject to Marshall Jewell.

Q. He was then here?

A. He was here at the time. Yes, sir; he happened to be here. I entered into the office, and I recollect introducing it to him. Says I, "Mr. Jewell, you are looking round for a place to build a sheep-skin factory. Your factory burned last night or the night before. I understand you have made up your mind not to build in the same place where the factory was." I said, "I think there is a chance for you to get a very good place for a sheep-skin factory." "Well," says he, "where is that?" And I told him about this Miss Thebault lot. Then I told him the conditions. Says I, "You can have the lot for $500 a year during her life, & I think when she talked to me she had included the Dr.'s bill, if I can recollect right." I am not positive, but I think it was Mr.

Jewell said, "I should prefer buying it, for I may be troubled many
431 years, and the trouble may be worth more than the money." I explained to him that I thought it could not be bought, "but I am authorized to make the disposition of the property to you at $500 a year and her doctor's bill, she to occupy the premises until the 1st of May following, '63, and the payments to be made semi-annually in advance." Mr. Jewell hesitated. I recollect he made some remarks about the length of time she might live, "French people live forever," &c.; and I said in regard to that I did not think she would live very long; she was advanced in age. I did know exactly; she represented herself 62 yrs. of age at the time, I think. In fact, I do not know now besides that what her age was. I did not suppose she could live any way over 20 yrs.; and he commenced supposing she lived 15 yrs., what it would come to. But he finally concluded he would take the lot if she would give it; so he said he would get a lawyer to make out the papers, and he came down to a lawyer.

Q. Do you know who it was?

A. A man by the name of Meddaugh.

Q. Between the time you had that conversation with Jewell and the execution of the papers, did you have any further conversation with her than what you have narrated? Did you see her again until the day the papers were executed?

432 A. I think I did.

Q. Do you remember what you said to her and what she said?

A. No; I don't remember; because I am not positive whether I saw her or not. It strikes me it was done pretty much the same time.

Q. This lawyer you mentioned and Jewell made their appearance on the day the papers were executed?

A. Yes, sir.

Q. You can state what took place when you first saw Jewell and this lawyer; what took place between Miss Thebault and yourself?

A. When the lawyer & Jewell came in I was in the house before they came, and they were around the tannery some place.

Q. You were in the house?

A. I was in the house when they came in; I entered some time before them. They seemed to be round the tannery visiting it, and I had a conversation with her and notified her they were coming with the papers.

Q. Will you state right there what the conversation was which you had with her before we came in?

A. The conversation I had with her before you came in was in ref. to these papers; I explained to her the nature of the papers; what they were; that she was to give the deed and take back a bond to secure her for payment. I made some explanations in ref. to these papers.

433 Q. Then Jewell and myself made an appearance in the house?

A. Yes, sir.

Q. Will you state what took place there?

A. When you appeared in the house I introduced Mr. Jewell and perhaps yourself to her, and after a few desultory remarks the papers were produced, and I proceeded to translate the papers to her in French; and after having translated them to her and had some conversation, and interpreted between her and Mr. Jewell, she concluded to sign the papers. The papers were signed in my presence, and in the lawyer's presence, and in Jewell's presence, and the money, $250, was paid to her, which I believe she returned immediately to me and requested me to put it in the bank, which I did. I have the bank-book here where the money

was deposited, but the bank-book did not correspond with my notions of it; it is the 23d of Nov., '63.

Q. Do you remember what the conversation was which you translated?

A. I translated the documents.

Q. Her conversation to us—what she said; do you remember?

A. No, sir; I could not say exactly. It seems to me it was in ref. to her mode of living.

Q. Do you remember whether you translated the usual acknowledgement to these papers to her in French when I took her acknowledgement?

434 A. Yes; I translated the papers to her.

Q. Do you remember translating that acknowledgement to her at the time?

A. No; not particularly.

Q. You remember translating the papers?

A. Yes; I translated the papers.

Q. You said you translated these papers to her in the French language, and you had this talk with her. Will you state whether, in your opinion, she understood these papers at the time she executed them or not?

A. She said she did.

Q. What is your opinion as to whether she did or not, from her talk?

A. I think she did; I know no reason why she should not understand them.

Q. You have known her for these years in this manner which you have stated?

A. Yes.

Q. Will you state your opinion as to whether she had capacity to understand such papers or not when explained to her in the way you explained them?

A. It is known, I presume—I don't know whether it has been shown in evidence here—that her education was a very fair education. In fact, I know of no woman of her age in the city of Detroit that had an education superior to hers—her book education; I say, I know of no woman that had a better education. That makes me suppose she could

435 understand a paper of this kind.

Q. Independent of her education, and simply in ref. to her capacity generally, her mental capacity, what do you say as to whether she could understand such a paper as that when explained to her?

A. I believe she could understand the paper. It was my opinion at the time she understood it.

Q. What do you say of her sanity or insanity during the time you knew her?

A. I don't know exactly what your definition would assume insanity to be; she had her peculiarities about her, different from other people.

Q. It is very difficult to define it. Will you state the impression she made upon your mind in respect to her mental capacity and characteristics. State them in your own way, from your knowledge & acquaintance with her.

A. The impression that I have always had upon my mind—it would take me some time to go into a kind of historical sketch, which I don't want to trouble the judge with, in order to show what brought her to this peculiar state that has been represented; that is, her opposition to priests and all that kind of thing.

Q. You may give the history of that woman as far as you have a

mind to, in that connection. I want down first exactly your knowledge of her.

436 A. When I was speaking of giving a history, I meant giving a sketch of conversations with her.

Q. I want you to give the whole thing connected with her in respect to the impressions on her mind relative to her capacity.

A. And the reasons that have operated on her mind to bring about these peculiarities?

Q. Yes; state the whole thing. It will give the court a better understanding, perhaps, than any other thing.

A. Having had many conversations with her, I have been able to read her and penetrate her, & see how things have operated upon her mind; how she stood. I will commence way back and pass rapidly. I will commence in the time of the French revolution. A young man came from the Santerre—he had to flee to America—by the name of Gabriel Riesha, priest, who established himself in Det. about 1796. At that time the post of Detroit was a very small place—very few people. It appears her father, Theobald, was one of the principal French citizens of this place at that time, said to have been, in money matters, the richest man in Detroit. Mr. Riecha was a very excellent man, and finding a French flock—nothing but French—his ministration was divided from house to house. He was a very excellent and faithful man. I knew him well from my boyhood up. She was educated under him, and was very much attached to him, and received her instruc-

437 tion and education from his instruction. In the course of time, somewhere about 1832, he died of the cholera, and of course many years before that her father had died, and the prestige of the family had kind of died out; they had dwindled down, become rather poor. Riescha passing away, a new bishop was appointed in his place, Mr. Rosa, who never visited the family or took any pains with her, and she became very much dissatisfied with the Church. Because the priests were not as Rieche was, she found fault with the priests, and seemed rather soured against the Church. As I said, her education was very good, but she had her eccentricities. She really was different in many things from other people; there is no doubt about that; and I will give you an instance of this. I recollect her saying to me, "Now, Mr. Dolson, you don't remember, but I do, the day before Genl. Brock crossed over down here and Detroit was taken. My father had $7,000 in silver in some kegs in the cellar, and he said, 'What shall we do with this money?' and I told my father we would take it and bury it, and we started right off and buried it near where Dr. Duffield's house used to stand, and it remained there until peace was made in 1841; and then when peace was made my father and brother went to look for it, but the Indians had burned the trees and marks, and they could not

438 find it, and they came after me and wanted to know if I could not help them, and I went there, & by jingo, (that was a word she always used as a kind of exclamation,) I went there and I soon found the stump, and I spoke out and said to my father, 'There it is, there it is;' and father dug down and they struck the keg. They could not fool me on that." Another instance: she says to me, "Mr. Dolson, you remember Capt. Revere when he married my sister." I said, "Certainly I do, Miss Thebault." "Well," says she, "when he died—you know he died the same week he was married—when he died, old Joe Mullam, the foolish old man, laid him out with his black broadcloth pantaloons on, and he was buried, and we never thought anything of it until a day or two after he was buried; then I says to Miss Weed,

'Didn't you give Mr. Revere some money?' 'Yes,' she said, 'I gave him $50.' 'Has he spent it for anything?' 'No.' 'Well, he is buried with his pantaloons on; he has got the money in his pocket. By jingo, I will get it.' 'Why,' says the sister, 'how will you get it.' Says I, 'I will get it; I will show you.' I started up to St. Ann's church, and then I took B——, the grave-digger, in the night, with me, and we went out with a lamp and dug open the grave, the cover we pried off, and I put my hands in, and, by jingo, I got the pocket-book with the $50."

Q. Did she give the grave-digger any, did she say?

439 A. I cannot say. These are some of the peculiarities of the woman. She had curious ideas. She told me that in 1811, the year before the war, a man at their house died, and that he made noises in the upper part of the house, rolling an old common ball up there. Says I, "It must be him." She thought it was, because he died only a short time before. She had such notions as these in her head.

Q. I would like now to get from you, definitely, if you can give it, the impression which your knowledge of her and familiarity with her made upon your mind with respect to her sanity.

A. I suppose she was a sane woman, from the fact in all money transactions she seemed to be very shrewd. I will give you another instance: She came to me in '57—I was buying hides for Eldred at the time—with a piece of paper written in French, with her name signed to it. She wanted me to translate it, and then strike off her name and put my name on it.

Q. On the translated paper?

A. Yes, sir. I will give you a literal translation of the paper: "To the Rev. Mr. , (his name I forget,) priest of the parish of Ecorse: Mr. A. B., (mentioning the name,) a member of your congregation, has owed me a certain amount of money, some $25, for a certain number of

440 years, which he has refused to pay me from year to year for some ten years. I understand for the last year he has never taken communion upon Easter Sunday, but now he has been to confession and has prepared himself to take this sacrament, and wishing that you would not give him the sacrament unless he pays me the money he owes," &c. She wanted me to translate it and arrange it in such a way that it would appear that I, as a Protestant, was requesting him to do this for this poor woman, signing my name as Dolson. I knew the minister by sight. I forget his name just now. The object in view in this paper was to have a kind of double influence with him—being a Protestant and connected with the French Methodist mission, and being in the habit sometimes of talking French to the people. This minister knew this fact, and she wished to take advantage of those circumstances to get the money out of this man who owed her. I thought it was a kind of sharp practice; it looked to me so at the time. I know I refused to have anything to do with it.

Q. You heard the testimony of Dr. Truedell?

A. Yes, sir.

Q. I think Dr. Truedell said he had a conversation with you on the street, just before or near the house of Miss Thebault, just a short time before she died, before the deed was obtained, during which, among other things, you expressed the opinion the woman was crazy.

441 A. I have been infrequently in the habit of calling her crazy, and I may possibly have said so at that time. Still my impression was that Dr. Truedell was mistaken as to the time of the conversation that he spoke about. I have frequently said in this way, "Miss Thebault,

you are certainly crazy to live in this way." And in speaking to persons that would talk to me about the way she was living, I would say the woman is certainly crazy to live in this kind of a way. That I made those expressions there is no doubt about.

Q. And were they made in that way, in respect to her way of living?

A. Yes, sir. Of course, in the conversation with French people I would generally use the word "follen." I don't think it is hardly the word insanity. Altho' I do not know whether I talked with Truedell in French or not.

Q. The word sounds like our word foolish.

A. I think the translation would be foolish, only it is feminine gender.

Q. Whether you have had any talk with the defendant in this case, or his counsel, in respect to your opinion of this woman?

A. I have had very little conversation with the defendant.

Q. Ever talk with me about it until this occasion?

A. No, sir; I have never spoken with you about it; I think I went to see you about it when I was administrator of the estate.

442 Q. You had no talk about this woman, or her capacity, or this transaction?

A. No, sir; but I had a few words, perhaps, with Jewell on the subject.

Q. You had not any with me?

A. No, sir; I have had nothing to do with you at all.

Q. Have you any interest in this matter, one way or the other?

A. Not a cent.

Q. Have you ever rec'd a dollar or a cent in any form connected with your relations to this case?

A. No, sir.

Q. Had any promise to rec. any?

A. No, sir; because I acted for Miss Thebault in the first place.

Cross-examination:

Q. In whose employ are you?

A. I am in Jewell's employ.

Q. How long have you been in his employ?

A. Since the 15th of March, '62.

Q. You were in his employ during the time of this transaction?

A. I was.

Q. What is the nature of that employment?

A. I was his tanner; kind of superintending the tannery.

Q. You have charge of the mechanical part of the tannery?

A. Yes; tanning.

Q. You say some one came to see you and told you Miss Thebault wanted to see you.

443 A. Yes, sir.

Q. Hadn't she twice sent word to you that she would like to see you?

A. Yes, sir.

Q. Hadn't she twice sent word to you that she would like to see you? Was that the only time she sent word to you?

A. I have no recollection of her sending for me excepting that time.

Q. She was in the habit of coming to see you frequently, was she not?

A. Yes, she had been.

Q. At this time, why did she send to see you; why did she not come to see you?

A. If I recollect right, the weather was rather bad, and she was indisposed.

Q. How far was she from where you worked?

A. Her house perhaps was as far as across the street; not quite. From the tannery it w'd be 30 feet.

Q. You passed and repassed most every day?

A. Every day.

Q. How did you find her indisposed at this time?

A. She was somewhat sick.

Q. Any one of her friends ever undertake to administer unto her the r*ight* of extreme unction, as it is called in the Catholic Church?

A. Before or after?

Q. At the time; & if not so, when, as near as you can remember?

A. Not to my knowledge.

Q. Did they at any time?

444 A. Yes; after the sale a priest came.

Q. When was that done?

A. He went into the back room where she was, and I stayed in the other room. I thought he was rather impertinent. He rather motioned to me—I think he rather made the request—for me to leave the house; and I was taking care of her and making fire, and I refused to do so. I told him she was in the other room, and I should remain where I was.

Q. Do you remember when that was that took place precisely?

A. No.

Q. About when?

A. It must have been in Jan. some time.

Q. Do you not think it was as early as the month of Nov.?

A. I know it was not. It must have been in Jan., because she had been failing pretty rapidly, and was very sick about that time.

Q. What success did he meet with? Do you know whether she rec'd it or not?

A. I do not know positively. I think the other priest was there before, and wished to administer extreme unction, and she refused.

Q. Before this time?

A. Yes, sir; a day or two before.

Q. What were the reasons?

A. It was an old French reason. When extreme unction is administered to a person sick it is rarely they ever recover. She told me that herself.

Q. Did she tell you that at this time?

445 A. Yes, sir; she told me at that time.

Q. Did you, some time in the fall of '63, at your house, of an evening, in the presence of myself and family, when visiting, speak of the old lady, and speak of her as being a sort of crazy old lady, and state that the priests have come and endeavored to administer to her extreme unction on the ground that they thought she was not going to live long, and that she refused to receive it on the ground that she feared she would not live if it was administered, and instance it as a kind of freak of her insanity?

A. I think Mr. Robinson and his family were on a visit at my house some time in that month, and I should not be surprised if such a conversation might have taken place; but, as being under oath, I could not say that I definitely remember it; but I think very likely, in the conversation with yourself & family on a visit, something of that kind occurred; I think it would be very natural that I should.

Q. You have at other times spoken of her as being a person of weak head and mind, have you not?

A. I have spoken of her as being a very singular and a very peculiar woman.

Q. You have also spoken of the fact that insanity in the family, have you not?

A. I may have spoken of that, but it could not have been of my personal knowledge; I have heard the matter spoken of. I gave my testimony in reference to that yesterday.

446 Have you not repeated or stated that it was a fact that her mother was a woman of very weak and partially deranged mind?

A. I have heard that, but, as I stated—but I wish to repeat—the mother I have seen frequently; have been in the house and have talked with her; but she was a woman at that time—so long ago as '28 or '29—she was a very old lady, I should think between 80 & 90 yrs. of age, and could hardly walk around, and looked very sad; but the age was such I could not say she was crazy, tho' I had heard sometimes she was deranged from other parties.

Q. You saw nothing to convince you to the contrary?

A. No; because a person of that advanced age w'd appear in that way.

Q. You have also reported that another member of the family, a sister or brother, was also partially insane?

A. Yes, sir; there was a brother that was very peculiar in one way, and then another brother, that was very extraordinary man, was hung in Montreal.

Q. Was you present at the time of her death?

A. No, sir.

Q. Were you immediately after?

A. Yes, sir.

Q. Who took charge of the premises?

A. I took charge.

Q. What money did you find about the premises?

447 A. As I remember, it was ten dollars and a half. I have not looked at the papers.

In what?

A. Silver.

Q. In the house?

A. Yes, sir.

Q. Where?

A. I says to Mr. Truedell, "There has been a great deal said about this woman having a great deal of money. French people think she has. I want you *I want you* and Mr. Clement Lafferty to take possession of the up-stairs of this house, where all her valuables are, and allow nobody to enter until you open every plank, and whatever you find valuable take them home;" which they did, because in this community it was understood for 30 yrs. that she had those money buried. Many were foolish to believe it. It grew out of these words about her father burying money.

Q. Did you find any money in the bank?

A. Yes, sir; no, not in the bank; I found a certificate of deposit.

How much was that?

A. In Butler's bank. I think the papers will show, if I have it. I think $21.

Q. In addition to that she had $250 in the bank?

A. Yes.

Q. Untouched?

A. Untouched.

448 Q. So that from the time she made the conveyance up to the time of her death she had not used any of that money?

A. She had used none of that $250.

Q. You testified a gentleman from Port Huron offered $350 for the rent of the lot?

A. I made a bargain with a gentleman to pay $350.

Q. For her as her friend or agent?

A. I acted for her as her agent.

Q. How much of this lot was to be rented for $350?

A. It was the whole premises. There was a final difference. It was losing her house. She did not care so much about her house as her garden; she had been cultivating it so many years. She said she had been planting those trees, &c.

Q. You think this conveyance took place the same day you saw Jewell up at the office?

A. I am not clear; I think it was, but it may have been the day before. It strikes me it must have been the day before that I first spoke about it.

Q. What time in the day did this interview take place at the house—the interview at the time the papers were executed?

A. I think it must have been in the forenoon. What makes me think it was the day before I spoke to Jewell I first made him the offer.

Q. Did you know her to change her mind frequently with reference to offers she would make?

A. Yes, sir; I did.

Q. She would undertake to make a bargain, and then she would change her mind?

449 A. In this one instance with me she changed. She requested me to make a bargain with this man, and when she came to reflect she said she had studied over it, and come to think the whole matter over, moving away from her place, her trees and all those things, she said, "I think, Mr. Dolson, you may tell him I will not do it."

Q. You felt an interest in making a good bargain for Jewell, did you not, at that time?

A. Really, I did not think at the time the bargain was such a great thing. It did not so occur to me at the time; it turned out much better than I supposed.

Q. Would you have been willing to make a good bargain?

A. I would have been willing to make a good bargain for any decent man at any time.

Q. Do you not think that in these things you have delineated to ref. to her character had had such an effect upon her mind as worried it and unhinged it somewhat; the influences of her priest and her extremely singular mode of living, and her belief in ghosts and the like of that; do you not think they had the effect upon her mind as to render it worried and in a measure unsound?

A. Really, I am not expert in such matters. I could not say these things might not affect her. Miss Thebault has not changed

450 much while I have known her, excepting when she was sick—at the time these papers were passed.

Q. She was sick?

A. She was quite unwell at the time; she had been under the physician's care for days.

Q. She could read and write English?

A. She could read and write English, and read Latin very well. Her occupation in former life, as near as I can remember, was teaching catechism, what was called the Quebec catechism; all the Ave Maries were in Latin, and much of the repetitions connected with the church, St. Ann's church, at that time were in Latin; and in fact I know from what she told me Reicha took particular pains to learn her Latin, and she seems to have been an adept at it; took hold of it so she could read. I say read; she used her prayer-book, and I often had arguments with her on religion. Frequently she would come in my office and say to me, "Oh, Mr. Dolson, I like you well, but I am very sorry you are a Methodist, very sorry you have this Mr. Pippin come to your house and take dinner." "Why, Miss Thebault?" "Why, because he had left the Catholic Church, and you ought not to receive him. It makes me feel very bad to see it;" and she would bring passages of Scripture to establish the facts. I recollect many passages that she would bring to bear upon me, and for the establishment of her church; one passage always she had, "I am Peter," &c.

Q. She could talk tolerable English?

451 A. Not very good.

Q. Understand it better than she could speak it?

A. She would understand it if you would accommodate yourself to that peculiar mode of communicating English to her. I could make her understand English, but in a conversation I don't think you could understand a great deal. Ordinary conversation in English as you would talk I don't think she would understand very well, but a person could by using certain phrases communicate their thoughts to her more or less; but as for regular conversations consecutively, she could not.

Q. Have you not stated that it was doubtful whether or no this conveyance would stand in a court of law under the circumstances? Have you not so stated to Naggs?

A. No, sir; I think not; I have no recollection of ever stating such a thing to Naggs. I have said something like this to Naggs when he came to me with his papers, showing the papers that he had and stating to me what he could prove; that he could prove certain things by Dr. Truedell, by Dr. Pitcher, and by other persons if I recollect right. "Then," says I, "if these things can be proved in that way, then it may be a question in law whether Mr. Jewell can hold the property."

Q. Did you say it was a matter of doubt?

452 A. I might even have said it was a matter of doubt on this question, propounded to me in that way, because I recollect he introduced the subject to me in that form somewhat. Says I at the time, "I think she understood what she was doing." That was my impression at the time.

Redirect examination:

Q. You were appointed administrator of her estate?

A. I was, at the solicitation of Mr. Allore.

MARSHALL JEWELL sworn for defendant.

Q. You are defendant in this case?

A. I am.

Q. Did you know Miss Thebault in her life-time?

A. I have seen her a great many times.

Q. Do you remember the occasion of her conveying her property to you?

A. Very well.

Q. You have heard the testimony of Mr. Dolson with respect to his conversations with you and what took place, and the negotiations and the final execution of the papers?

A. No; I did not hear that; I did not hear his testimony this morning in regard to it.

Q. I will ask you generally whether you approached Miss Thebault or not, or a communication came from her in respect to the sale of that property to you; in the first place, which side the negotiation commenced on?

453 A. Mr. Dolson came to me, if I recollect right, in my office up town one evening, or the afternoon, and said that ———

Q. I don't care to go over that now; the papers were prepared, that all appears. Will you state what took place at the time the deed was executed—whether you saw her?

A. I went into the house and, it seems to me, Miss Thebault came in with her apron full of chips while we were there. I was never in the house but that time, and when she came in Mr. Dolson introduced me to her as Mr. Jewell, in French, and stated that I had come to execute those papers about which he had talked or with which she seemed to be familiar, and she assented to it.

Q. The acknowledgement was taken.

A. The acknowledgement was taken.

Q. You paid her the money?

A. I paid her the money, and they were read over to her in French, and she assented all the time apparently.

Q. Will you state whether that deed was procured clandestinely or in any underhand manner, secretly, under cover of others, or any other cover, for that is what you are charged with in this bill?

454 A. After Mr. Dolson came to me and said what Miss Thebault would do, made this offer to me, I said I would rather buy the property out and out; but, if that is the only way I can get it, I would like the property, and I will take it in this way; and I went down to your office and you made over the papers.

Q. What knowledge had you of the condition of her health at that time? At the time you agreed with Mr. Dolson to take the property in that way and the prospects of her living, what knowledge had you of her at all?

A. I had seen her about there for ten years, and I think Mr. Dolson—and I think I asked her how old she was, and she told me 62.

Q. What was her condition at that time as to health, whether there was anything about her to indicate she was near her grave or not?

A. I did not see but she looked just as she always had.

Q. From the time you had known her?

A. I had seen her about her premises.

Q. For how many years?

A. For six or eight years.

Cross-examination:

Q. At that time did she not appear as though she was in feeble health?

A. She did not to me.

455 Q. Did you not remark at the time of the conveyance—the interview—did not remark to her that if she did not change her mode of life that she could not live long?

A. I looked at the room where she slept. The house looked so badly to me, so dirty, and such evidences of misery, penury—I looked at the room where she slept; I recollect that very distinctly, and said to Dolson or to her, "I don't see how anybody can live in such a place;

get her a bed, or get her some clothing," which I believe he did; I have forgotten.

Q. Did you qualify the remark in this manner: that in her state of health she could not live long in that mode of life in her present state of health?

A. I don't recollect making that remark. I know I wondered how she had lived so.

Q. You knew her to be a very eccentric, queer woman?

A. Yes, sir.

Q. Knew her to be exceedingly penurious?

A. Yes, I think I did.

Q. You had made one or two advances to secure that lot before?

A. Never. No; I made no advance that time.

Q. You had inquired with reference to securing that lot, whether it could be secured, or not?

A. Yes, sir.

Q. What was you told?

A. I think I probably had talked with nobody but Dolson, and that very little; but I had always heard that she would never sell the lot.

456 Q. You had told Dolson that you would like that lot, if you could get it, and like to have him get it for you, if he could, at any time?

A. I think not; no. The only conversation, I think, about the question of wanting to buy this lot, Mr. Dolson always said, "She will never sell it as long as she lives." That is my impression, and I think that is the only reply he ever made to me.

Redirect:

Q. Prior to the commencement of this suit, whether you had received any notice from Allore, directly or indirectly, that he claimed this property?

A. I never did.

Recross-examination:

Q. Did you ever cause word, or request word or mention that you would like to see Allore on the subject of his relation to this matter after her death?

A. I never said one word of that kind, and the evidence that was introduced here the other day that I did is a lie. Somebody testified to that. So far as I am concerned, there is not a word of truth in it. I had no idea, until this suit was commenced, that there was the slightest question, and so far from—is it proper for me to volunteer?

Q. Yes.

457 A. So far from thinking there was any question about it, this lot was put into my father's estate as an asset; that is, I was acting for P. Jewell & Sons all the time, and, three years ago, when my father died, and we made an inventory of our estate, this lot was put in, and the present firm paid his estate for the lot. I had no more doubt about our proprietorship—(though it stands in my name it belongs to the firm of P. Jewell & Sons)—I had no more doubt of our proprietorship of this lot than of any other real estate that he owned.

SUSAN A. ABBOTT:

Q. Where do you reside?

A. At the hospital; I have got a room there and board there.

Q. How long have you resided in the city of Detroit?

A. I was born in the city of Detroit.
Q. How old are you?
A. 74.
Q. Did you know Miss Thebault in her life-time?
A. Oh, yes; I knew her when she was a little bit of a girl.
Q. During her life did you live near her at any time?
A. Not during her life, but towards the last of her life she was not far from me.
Q. How far?
458 A. For a number of years, for 12 years, maybe, she was a neighbor, and after that I moved from there down to Porter street, and then she remained at the same place, but occasionally when she would come down the road she would call and see me.
Q. How often did you see her all the time you knew her?
A. I can't tell you. O, many time, many time she would speak to me to pass a few words
Q. From all you saw of her and knew of her during her life-time, what do you say as to whether she was sane or insane, whether she was a crazy woman?
A. Oh, not at all; she had her perfect mind, I think.
Q. Did she play the violin?
A. Yes, sir.
Q. How was she in respect to her dress?
A. Very poorly. She did not care much about any fashion or anything; made her own shoes; she was very economical.
Q. How was she in respect to her conduct generally, peculiar, odd?
A. I never heard anything bad about her only she was a very stingy person; she suffered herself rather than to spend money for her own conveniences.

Cross-examination:
Q. Did you use to see her very frequently?
A. Not towards the last; she did not come out much and I didn't have any occasion to go; she was some distance. I never went but
459 a day or two before she died. I saw her. She was perfectly well, her mind was perfectly good.
Q. A day or two before she died?
A. No; not the day before she died; I went there, but she was dead when we went—Mrs. Bristol & I; I believe I seen Mr. Dolson there that day I went.
Q. Did you ever see anything peculiar about her, or odd, more than other people?
A. No, sir.
Q. Never noticed anything peculiar?
A. No, sir; nothing at all.
Q. Nothing different in her from other people in any respect?
A. No, sir.

MORRIS FARRELL.
Q. Where do you reside?
A. City of Detroit, Wayne Co., State of Michigan.
Q. Where are you to work?
A. I work in P. Jewell & Sons' tannery.
Q. Were you to work there in the fall of 1863?
A. Yes, sir.
Q. Do you remember Miss Thebault?

A. Yes, sir.
Q. Did you see her?
A. Yes, sir.
Q. Were you in her house that winter?
Q. I was.
Q. After she was taken sick?
A. Yes, sir.
460 *A. Yes, sir.*
Q. Will you state about what time it was?
A. It was some time in January; I can't exactly give the date.
Q. That was in January, 1864?
A. Yes, sir.
Q. How long before her death?
A. I think it was some four or five days.
Q. What was you doing in her house?
A. I was waiting on her.
Q. Doing what?
A. I was starting a fire and keeping the house comfortable, giving her a drink occasionally.
Q. Did you have any talk with her at all?
A. Yes, sir.
Q. What did you hear her say either?
A. She told me to start a fire in her stove; & after I had the stove well heated up she asked me if I would close the stove-damper, and her lamp was lit on the table, and she asked me if I would turn it down; I asked her if she would not need it; she said I always carried my lamp and that would do for her.
Q. What was your business?
A. Watchman.
Q. Night-watchman?
Yes, sir.
What else did she say to you about that time; anything else?
461 A. She told me she had a lot of sawed and split wood in her yard that Mr. Jewell had sent her, and if I would not be kind enough to have an eye in case the neighbors would steal it from her when she was sick in bed.

HERBERT BOWEN.

Q. Do you remember going to see Mme. Cuson?
A. I do.
Q. Who did you go with?
A. I went with Wilkie Moore.
Q. Will you state what conversation you had with her, whether it was in the presence of Mr. Moore, and what she said?
A. I did have some conversations with her in regard to this old lady, Madame Thebault, and the substance of that conversation I noted down immediately after coming out of the house. I could tell it mostly.
Q. Have you got the memorandum you made immediately after coming out of the house?
A. I made it a very few minutes after coming out.
A. First Madame Louisa Cuson, formerly Mrs. Lavanae. She said she lived just opposite to Madame Thebault for ten years, and she saw her two or three days prior to her death, and that she was then sane. She talked to her alone; she was getting to be an old woman and
462 it was cold, and things of that nature. She also stated that she had also heard her speak of her conveyance to Mr. Jewell and ex-

pressed herself fully satisfied with it; and she also stated that Madame Thebault had called Mr. Jewell her father in her presence, and showed her a dress he had given her; she stated she did not think her insane, and that she had heard her express her dislike for Allore, the complainant in this case. She also stated that some Irish lawyer had been round there attempting to get her to sign a paper to the effect that Madame Thebault was insane, and she did not do it because she did not think it was true; and upon the name being suggested I understood her to say O'Flynn, but perhaps it may have been Flynn. She also said she had seen the evidence of Dr. Truedell on this subject; and when I questioned her about that how it was possible, she said it was a written paper signed by him which this other man brought with him.

Q. Was you ever there but once?

A. Never but once.

Q. Any way?

A. Never but once; never seen her before or since, with the exception of being in the court-room since the trial commenced.

463 Cross-examination:

Q. I see you reading from those minutes. Do you refresh your memory from the minutes?

A. Partially. I recollect many things independent of this about the conversation.

Q. You refresh yourself on the details?

A. I recollect particularly about her thinking her all right, because it struck me at once what an admirable witness a person living opposite and knowing her so well would be.

Q. When did you take the minutes down?

A. I think I came directly to the office and then wrote the minutes down.

Q. How many did you see this time?

A. I think, with the exception of Mrs. Abbott, no one. I think we went down to Mrs. Abbott, and came from there to Mrs. Cuson.

Q. Was Mr. Moore with you at that time?

A. Yes, sir.

Q. Was he out with you more than once?

A. Yes, sir; two or three times; once with me at that time, then we called on the Loranger's another time, and once went up to see Mrs. Bristol, who lives up Woodward avenue.

Q. You think you took that down the same day?

A. I am positive.

Q. Some time afterward at the office?

A. I came directly to the office and there made a minute of the fact.

464 Q. Might you not be a little fast and mistaken?

A. I don't think it is possible, because I think she was the second one I had seen; and I remember I was very favorably impressed at the time that she was a good witness.

Q. Did you see Mrs. Abbott before or after?

A. Before we went down in the cars and came from there up.

Q. You could not confound her with Mrs. Abbott?

A. Not in regard to this evidence.

Q. Did you not query about it yesterday, and say it did not seem as if you had made it the same day?

A. No; I said I did not think it was possible she would willingly tell a falsehood.

Q. Did you say it did not seem possible you could have taken it down or you could have made that memorandum right after the same day?

A. No, sir; I never said any such thing. I know when I made the memorandum.

Q. Did you not explain yesterday when you made the memorandum?

A. Certainly I did.

Q. And that it did not seem possible such conflict of testimony could exist, or something to that effect?

A. I said I could not account for the way she testified yesterday with reference to the matter she told me; that I thought it was
465 either wilful falsehood, or she had a mind very peculiar in itself to enable her to contradict so absolutely what she told me—to testify so to the contrary.

Continuation of BOWEN'S testimony:

The memorandum I made directly above here of Mrs. Abbott, I made then along, as I say, on different pages; I recollect both the visit to Mrs. Abbott and Mrs. Cuson; at Mrs. Abbott's I saw Mrs. ———, a sister of Mrs. Abbott.

Q. Ever see this lady another time?

A. With the exception of in the court-room, not at any time, except the one I was there.

COURT. Do you recollect the facts that occurred, independent of your memorandum, after looking at your memorandum?

A. Yes, sir; I recollect them substantially.

Q. You recollect that, independent of the memorandum, after refreshing your memory?

A. Yes; I think I could have stated them substantially without looking at the memorandum.

Question by Mr. Robinson. That is what I wanted to know.

A. Yes, sir; it struck me very forcibly at the time she stated
466 what she did on the subject, in particular as the Irish lawyer had been there before with the paper, and she would not sign it.

Mr. MEDDAUGH sworn:

I prepared the deed of conveyance and the other papers executed by Miss Thebault and by Mr. Jewell connected with this sale of the property; I was present and took her acknowledgement, which Mr. Dolson translated to her as it was read over in English by me. Upon going into the house, my recollection corresponds with the defendant, that she was not in at the moment. I think Mr. Dolson had gone in in advance of us; we found him there, and that she came in with some chips or wood a very few minutes after we entered the house. I was not a party to any clandestine performance connected with the obtaining of this deed, and had no knowledge of, and consequently did not participate in, any such scheme, if there was any.

467 By consent of counsel the following papers are considered in evidence, copies hereafter to be attached. On the part of the defense the conveyance of mortgage back from Mr. Jewell to Miss Thebault, and the bond to which it was collateral, and the deed of conveyance.

REBUTTING EVIDENCE.

Mr. DOLSON recalled:

Q. Do you know of Allore coming up here as he testifies, to see Mr Jewell?

A. Yes, sir.
Q. State what you know about it; what he said, and what you said. (Obj. to.)
Q. Will you state whether Allore made any demand or request to be indemnified or allowed anything by way of his heirship to that property or his title or interest in it?
A. The conversation with Mr. Allore, he came up here at the request of some French friends here, and he called on me; his object evidently was to see whether Mr. Jewell would not give him something. I told him Mr. Jewell had gone away, was not in Detroit, and as to his giving him anything he did not know how that would be.

468 Cross-ex.:

Q. When was that, the date, as near as you can get at it?
A. It was about the time of the close of the administration.
Q. Before or after this suit commenced?
A. Just about the time, probably six or eight months after the death.
Q. You know it was before the suit commenced?
A. Oh, yes.

The testimony is closed, except that the defendant has the privilege of calling Dr. Pitcher hereafter.

469 At a session of the circuit court of the United States for the eastern district of Michigan, continued and held pursuant to adjournment at the district court-room, in the city of Detroit, on Tuesday, the third day of September, in the year one thousand eight hundred and seventy-two.
Present, honorable John W. Longyear, district judge.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT. } In equity.

This cause having been heretofore argued by counsel on either side, upon pleadings and proofs filed and taken therein, and the same having been duly considered by the court, it is now by the court here ordered, adjudged, and decreed that the bill of complaint of said complainant filed in this cause be, and the same is hereby, dismissed, with costs against said complainant to be taxed.

470

471 The circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT.

Bill of costs for defendant.

Solicitor's fee on final decree		$20 00
Witnesses as follows:		
Victor Thebo, 2 days	$3 00	
" " 2 miles travel	10	

Mrs. " "	2 days	3 00	
" " "	2 miles travel	10	
Frank "	2 days	3 00	
" "	2 miles travel	10	
Ralph Lemme,	2 days	3 00	
" "	2 miles travel	10	
Mrs. " "	2 days	3 00	
" " "	2 miles travel	10	
			15 50
			$35 50
	Am't for'd		$35 50
	Levi E. Dolsen, 3 days	$4 50	
	" " " 2 miles travel	10	
	Mrs. Chas. Bristol, 2 days	3 00	
	" " 2 miles travel	10	
472	Mrs. S. A. Abbott, 2 days	3 00	
	" " " " 2 miles travel	10	
	Ream, 1 day	1 50	
	" 2 miles travel	10	
	Henderson, 1 day	1 50	
	" 6 miles travel	30	
	P. G. Belknap, 2 days	3 00	
	" " " 2 miles travel	10	
	Maurice Farrell, 3 days	4 50	
	" " 2 miles travel	10	
	Mrs. Dowas, 2 days	3 00	
	" " 2 miles travel	10	
	Mad. Louise Curson, 2 days	3 00	
	" " " 2 miles travel	10	
	J. W. Moore, 1 day	1 50	
	" " " 2 miles travel	10	
	J. T. Ladue, 1 day	1 50	
	" " " 2 miles travel	10	
			$31 30
			$66 80
	Reporter for taking defts. testimony		47 30
	Com'r fees for administering oath to 19 witnesses		1 90
	Marshall's fees for subpœn'ing 16 witnesses		8 00
			$124 00

EASTERN DISTRICT OF MICHIGAN, *ss:*

E. W. Meddaugh, being duly sworn, deposes & says that he is one of the solicitors for the defendant in the above-entitled cause;
473 that the several persons named as witnesses in the foregoing bill were actually in attendance as therein stated, were sworn and testified in said cause, and deponent believes all traveled in attending as such witnesses the distances respectively named in connection with each.

Deponent further says that the stenographer was paid for taking the testimony in behalf of defendant the sum named in said bill, and that he actually took such testimony, & that defendant has either paid or is liable to pay the several sums named in said bill in connection with witnesses, and also the sum thereon named as paid to the marshal for subpœnaing witnesses.

He also says that the testimony of eighteen witnesses was taken in said cause on behalf of defendant.

(Signed) E. W. MEDDAUGH.

Subscribed & sworn to before me this 17th day of September, A. D. 1872.

(Signed) GEO. W. BATES,
Notary Public, Wayne County, Michigan.

I hereby tax the costs of the defendant in the above-entitled cause at the sum of one hundred & twenty-four dollars, ($124,) the solicitors for the respective parties being present & assenting thereto.

(S'gn'd) A. MANDELL, *Clerk.*

DETROIT, *Sept.* 21, 1872.

474 (Indorsed:) No. 1469. The circuit court of the United States for the eastern dist. of Michigan. In chancery. Eli Allore, compl't, vs. Marshall Jewell, deft. Deft.'s bill of costs and taxation. Filed in the clerk's office Sept. 17th, 1872. (S'gn'd) A. Mandell, clerk. Meddaugh & Driggs, sol'rs for deft.

475 Circuit court of the United States for the eastern district of Michigan. In chancery.

ELI ALLORE, COMPLAINANT,
vs.
MARSHALL JEWELL, DEFENDANT.

SIR: Please issue an execution in the above-entitled cause for the amount of taxed costs awarded by the court in said cause (amounting to the sum of one hundred and twenty-four dollars) against said complainant in favor of said defendant.

Detroit, Sept. 23d, 1872.

(Signed) MEDDAUGH & DRIGGS,
Solicitors for Deft.

To the clerk of said court.

476 (Indorsed:) No. 1469. Circuit court U. S., eastern district of Michigan. In chancery. Eli Allore, complt.,vs. Marshall Jewell, deft. Precipe to clerk to issue execution for taxed costs. Filed Sept. 23d, 1872. (S'gn'd) A. Mandell, clerk. Meddaugh & Driggs, sol'rs for deft.

477 The President of the United States of America to the marshal of
[L. S.] the eastern district of Michigan, greeting:

You are hereby commanded that, of the goods and chattels, and for want thereof, then of the lands and tenements of Eli Allore, in said district, you cause to be levied and made the sum of one hundred and twenty-four dollars which Marshall Jewell, lately in the circuit court of the United States for the eastern district of Michigan, before the judges thereof, sitting in chancery at the court-house in the city of Detroit, recovered against him for costs of said Marshall Jewell, in a certain cause in said circuit court, in chancery, wherein said Eli Allore is complainant and said Marshall Jewell is defendant, under and by virtue of an order or decree of said court in favor of said defendant, against said complainant, bearing date the 3d day of September, A. D. 1872, which said costs have been taxed at the said sum of one hundred and twenty-four dollars which were awarded by the said court to the said Marshall Jewell, defendant, as aforesaid, for his costs and charges by him,

478 about his suit in that behalf, laid out and expended, whereof the said Eli Allore is convicted, as appears of record. And have you those moneys in the said circuit court of the United States for the said eastern district of Michigan, at the court-house, in the city of Detroit, on the first Tuesday of December next ensuing, to render to the said Marshall Jewell for his taxed costs aforesaid.

And have you also then and there this writ.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States of America, this twenty-third day of September, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States of America the ninety-seventh.

(Signed) ADDISON MANDELL, *Clerk.*

(Endorsed:)
Rec'd one hundred twenty six $\frac{16}{100}$ in full of above execution.
Nov. 8th, 1872.
(Signed) MEDDAUGH & DRIGGS,
Attor'eys for Deft.

479 Rec'd, Detroit, Nov. 7th, '72, of U. S. marshal, $1.50, clerk's cost for the writ.
(Signed) A. MANDELL, *Clerk.*

EASTERN DISTRICT OF MICHIGAN, *ss:*

I do hereby certify & return the within writ satisfied in full.
(Signed) JOSEPH R. BENNETT,
U. S. Marshal,
By T. W. KAY, *Dept.*

Service of writ, 2.12; percentage, 3.15—$5.27.
Paid.

480 Returned & filed in clerk's office, Nov. 18, 1872.
(S'g'd) A. MANDELL, *Clerk.*

(Indorsed:) No. 1469. Circuit court U. S. for the eastern district of Michigan. In chancery. Fieri facias, Sept. 23d, 1872. Eli Allore, complainant, vs. Marshall Jewell, defendant.

Am't of taxed costs awarded by court against said compl't, in favor of said deft., under decree or order dated Sept. 3d, 1872.	$124 00
Interest thereon from Sept. 3d, '72, fi. fa.. &c.....	1 50
	$125 50

MEDDAUGH & DRIGGS,
Defendant's Attorneys.

481 Circuit court of the United States for the eastern district of Michigan. In equity.

ELI ALLORE
vs.
MARSHALL JEWELL.

And now comes said complainant and appeals from the decree of said court heretofore rendered in this cause to the Supreme Court of the United States.

And appellant prays that the bill and all other proceedings may be sent to said Supreme Court, to the end that said cause may be heard anew and such decree obtained as to said Supreme Court shall seem just.

ROBINSON & BROOKS,
Sol'rs for Appell't.
ALFRED RUSSELL,
Of Counsel,

Dated Detroit, August 14, 1874.

This appeal is hereby allowed, and the bond for costs fixed at five hundred dollars, and the bond this day filed is hereby approved.

(S'g'd) JNO. W. LONGYEAR,
Dist. Judge and one of the Judges of said Court.

(Endorsed:) Filed in the clerk's office August 17, 1874. A. Mandell, clerk, by Jno. Graves, dep.

483, 484 *Bond by appellant for costs.*

Supreme Court of the United States.

ELI ALLORE, COMPL'T & APPELL'T,
vs.
MARSHALL JEWELL.

Know all men by these presents that we, Eli Allore, of Newport, Wayne County, Mich., and George O. Robinson, David W. Brooks, and Alfred Russell, of Detroit, are held and firmly bound unto Marshall Jewell, of Hartford, Connecticut, in the sum of five hundred dollars, to be paid to the said Marshall Jewell, or his legal representatives; to which payment, well and truly to be made, we bind ourselves and our legal representatives, sealed with our seals and dated this twentieth day of August, A. D. 1874.

Whereas the above-named Eli Allore hath prosecuted an appeal to the Supreme Court of the United States, to reverse the decree rendered in the suit of Eli Allore vs. Marshall Jewell by the circuit court of the United States for the eastern district of Michigan, sitting in equity:

Now, therefore, the condition of this obligation is such, that if the above-named Eli Allore shall prosecute his said appeal to effect, and answer all costs and damages if he shall fail to make good his appeal, then this obligation to be void; otherwise to remain in full force and virtue.

ELI ALLORE, [L. S.]
(S'g'd) By his attorney in fact, J. W. KNOGGS. [L. S.]
GEO. O. ROBINSON. [L. S.]
DAVID W. BROOKS. [L. S.]
ALFRED RUSSELL. [ ]

Sealed and delivered in presence of—
(Sig'd) C. F. BURTON.
" HENRY RUSSEL.

(Endorsed:) Filed in the clerk's office Aug. 17, 1874. A. Mandell' clerk, by Jno. Graves, dep'y.

485 By the Hon. John W. Longyear, one of the judges of the circuit court of the United States for the eastern district of Michigan.

To Marshall Jewell:

Whereas Eli Allore has appealed to the Supreme Court of the United States from a decree rendered in the circuit court of the United States for the eastern district of Michigan, in equity, in favor of you, the said Marshall Jewell, and has filed the security required by law:

You are therefore cited to appear before the said Supreme Court of the United States at Washington on the second Monday of October next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of Detroit, in the said eastern district of Michigan, this seventeenth day of August, in the year one thousand eight hundred and seventy-four.

JNO. W. LONGYEAR,
District Judge and one of the Judges of said Circuit Court.

486 EASTERN DISTRICT OF MICHIGAN, *ss:*

Samuel Slessinger, being duly sworn, deposeth and saith, that on the 17th day of August, A. D. 1874, he served on Meddaugh & Driggs, attorneys of record of Marshall Jewell in the said cause, a true copy of the citation within, by delivering the same to George W. Bates, a clerk in the office, and having charge thereof, of Meddaugh and Driggs, at their office in Detroit, the said Meddaugh & Driggs both being absent therefrom.

SAML. SLESINGER.

Sworn and subscribed before me this 17th day of August, A. D. 1874.
JNO. GRAVES,
U. S. Comm'r East. Dist. Mich.

Service of within citation is hereby acknowledged.
Aug. 17th, 1874.

MEDDAUGH & DRIGGS,
Sol'ers for Defendant.

(Indorsed:) No. 1469. U. S. circuit court E. D. Mich. In equity. Eli Allore, compl't & appell't, vs. Marshall Jewell, deft. & appellee. Citation. Filed in the clerk's office, August 17th, 1874. A. Mandell, clerk, by Jno. Graves, dep'y. Robinson & Brooks, sol. for appell't; Alfred Russell, of counsel.

487 EASTERN DISTRICT OF MICHIGAN, *ss:*

I, Addison Mandell, clerk of the circuit court of the United States for the eastern district of Michigan, do hereby certify the above and foregoing to be a true copy of the original bill, answer, pleadings, evidence, orders, proceedings, and decree, and of all the original files and papers in the case of Eli Allore, complainant, against Marshall Jewell, defendant, in said court in equity; that I have compared the same with the originals thereof of record and on file in my office, and find the same to be a true copy of said originals.

In testimony whereof I have hereto set my hand officially and affixed the seal of said court at Detroit, this ninth day of October, in the year of our Lord one thousand eight hundred and seventy-four, & of our Independence the ninety-ninth.

ADDISON MANDELL,
Clerk.

Clerk's fees, $136.40.

(Indorsement on cover:) No. 220. Eli Allore, appellant, vs. Marshall Jewell. E. Michigan C. C. U. S. Filed 31st October, 1864.

SUPREME COURT, U. S.

OCTOBER TERM, 1876.

ELI ALLORE,
Complainant and Appellant,

vs.

MARSHALL JEWELL,
Defendant and Appellee.

No. 220.

Equity Appeal from Eastern District Mich.

BRIEF FOR APPELLANT.

ALFRED RUSSELL,

Of Counsel for Complainant and Appellant.

DETROIT:

SCHOBER & CO., PRINTERS AND BINDERS, 7 FORT ST. WEST.

1877

United States Supreme Court.

OCTOBER TERM, 1876.

ELI ALLORE,
Complainant and Appellant.

vs.

MARSHALL JEWELL.

No. 220.

Equity Appeal from the Eastern District of Michigan.

Brief for Complainant and Appellant.

This is a suit by an heir-at-law to cancel a conveyance of lands in the city of Detroit, obtained from his ancestor by fraud two months before her death, she being incompetent from age, insanity and sickness.

The case is one which it is impossible to view as a whole, even in outline, without perceiving a fraud, which being seen, equity will relieve. To infer fraud it is not necessary to descend to the minute particulars.

A sick, aged and insane French spinster, ignorant of business, who lived alone many years upon real estate in the city of Detroit, worth about $10,000, in her last sickness executed a warranty deed of the property, which was her homestead and her entire property, to the defendant,

a business man from New England, for $250. The conveyance was obtained by and through Levi E. Dolsen, a business man and the defendant's agent, who had been informed by the grantor's physician *that she would not survive*, and who therefore went through the idle ceremony of having the defendant mortgage the property to the grantor, to secure a *life* annuity of $500, physicians' bills during *life* and *taxes during life*, which last provision was evidently inserted to convey the impression, that the instrument was the ordinary French life lease. This agent was *also French* and a supposed friend and agent of the grantor, and long *perfectly familiar* with the condition of the grantor, and perfectly aware *also* that getting this deed was merely a doubtful experiment in the law. No persons were present or consulted, except the agent, the defendant and his attorney, and great haste marked the proceedings.

The agent and, subsequently, the defendant carried on a tannery next to the grantor's premises, and had for years looked forward to the acquisition of her property. The property was 98 feet front on Woodbridge street, in the city of Detroit, between 12th and 13th streets, and about 1,000 feet from the principal railway depot. Fifty feet front of the property extended 500 feet to the channel bank of the Detroit River, and afforded valuable shipping facilities; 48 feet extended toward the river; 130 feet to an alley.

ABSTRACT OF BILL.

The bill states that complainant is of Monroe, Michigan, and defendant of Hartford, Conn.; that complainant is the nephew and sole heir-at-law of Marie Genevieve Thibault, an alleged lunatic, who died in Detroit, intestate, February 4th, 1864.

That for 28 years previous she was seized in fee of the real estate in question, which she occupied as a homestead.

That during the last few years of her life she was afflicted with lunacy or chronic insanity, and was aged and infirm, and incapable of transacting any business.

That she was taken sick, confined to her house and bed, and went into a rapid decline, which weakened her faculties, aggravated her insanity, disqualified her still more for business, and rendered her recovery hopeless.

That while she was in this condition, there being no prospect of her recovery, and a few weeks prior to her death, the defendant Jewell, through his agent Dolsen, in whom Miss Thibault reposed confidence as a neighbor and adviser, for a nominal consideration ($250 cash and a small annuity), obtained from her a conveyance of her real estate of the value at that time of $8,000.

A copy of the deed is then set out in the bill, dated November 24, 1863. It is a deed of warranty with full covenants, in consideration of $250 paid. Subjoined to the deed is an agreement by the defendant to pay the grantor $250 and an annuity of $500, all her physician's bills during her life, the taxes for 1863, *and all taxes during her life on said property*; also that she could remain in her house on the property *till the spring* of 1864, or defendant would rent her another house till *spring*.

This instrument was signed by Miss Thibault and the defendant, witnessed by Dolsen, defendant's agent, and Meddaugh, defendant's attorney, and acknowledged before the defendant's attorney as notary.

The bill then alleges, that the defendant and his agent Dolsen, who conducted the negotiation, *well knew* at and before the execution of said conveyance, that the woman was a lunatic, sick and infirm, and that she had no reasonable *prospect of recovery* or of *long surviving*; that she did not understand the nature of the conveyance and expected that the property would *revert* to her or her heirs.

That the grantor lived only to receive the payment of $250.

That the conveyance was therefore fraudulently obtained for an insignificant consideration, with knowledge of the woman's disabilities and the prospect of her speedy decease.

That the conveyance was obtained in a clandestine manner without affording the grantor the advice of her neighbors and friends.

That defendant has been in possession since the death of the grantor, under this fraudulent title, and that a fair rental would be $1,000 per annum during the period.

Prayer that the conveyance may be decreed void, may be cancelled, for an amount for use and occupation, a personal decree for payment of the amount and general relief. *Oath waived.*

ABSTRACT OF ANSWER.

The defendant admits the residence of parties, ignores the heirship, admits that Miss Thibault died intestate, February 4, 1864; that she had owned the premises 28 years and had occupied the same as a homestead.

Admits that she had been in poor health for some time prior to her death; denies that she was a lunatic or afflicted with chronic insanity, or was so aged and infirm as to render her incapable of transacting business of importance.

Admits that he received from Miss Thibault, November 24, 1863, the conveyance set out in the bill; denies that she was then unfit, by reason of age, sickness or insanity, to give the conveyance, or that it was obtained fraudulently or for a nominal consideration, or that the land was worth $8,000. *Avers it was not worth over* $5,000.

Denies that Dolsen acted as his agent, or that *he* or defendant *knew*, at or before the time, that she was a lunatic or unsound, or *had no reasonable prospect of recovery.*

Denies that it was obtained clandestinely, or that the consideration was insignificant or inadequate *under the circumstances.*

Denies that she expected the property would ever revert to her or her heirs, but admits she *did not live to receive but one payment.*

Avers on information and belief, that at the time Miss Thibault was between 60 and 70, had been for several years in poor health, not confined to her house or bed, but that she *lived alone*, taking care of herself; that she had no other property; that this property had a small and poor house upon it, and yielded no income; that she was wholly neglected by her relatives; that complainant was a worthless person who paid no attention to her, and

that she had declared that he never should own her property.

That she proposed, through Dolsen, to sell to defendant for an *annuity* of $500; that defendant accepted, and the conveyance was executed, and a mortgage given to secure the annuity; that it was not done clandestinely; *that Dolsen read and explained to her the deed and mortgage in the French* language; that she was then *in the full possession of her mental faculties*, appreciated the value of the property, was capable of contracting and had an intelligent view of the best of her interests; that the giving of the conveyance was unsolicited by defendant or any one for him.

That Miss Thibault's administrator (*who was Dolsen*) came into possession of only $31.50, in addition said $250; that debts were allowed and paid by him $168.08, and the remainder was paid by the administrator to *complainant, as heir-at-law*, by order of the Probate Court, *who has never tendered* defendant the $250.

That defendant has occupied since complainant's death, and paid large sums for taxes, and made permanent improvements to the value of $7,000. That complainant gave defendant no notice of his claim until the commencement of this suit, but knowingly permitted the putting of buildings, etc.

That the rental value when the conveyance was made, *did not equal the taxes.*

A motion was made for an issue of fact to be tried by jury, but *denied*, and the District Judge heard and determined the case.

TESTIMONY FOR COMPLAINANT.

I. Relationship of Complainant.

The defendant's brief (p. 43, middle) admits this.

a. Eli Allore positively testifies, (fol. 142; see also fol. 148).

b. Dolsen recognized him as her nephew, (fol. 147; see also fol. 467).

c. Miss Thibault recognized him as her nephew, (fols. 83, 139, 194, 427). Especially (194) her statement that she would not sell, saying, "You know I have got a nephew, and he will have it when I be dead."

d. Defendant, in answer, admits complainant has received Miss Thibault's money *as her heir*, and *Dolsen* was administrator.

e. No testimony contra.

II. Insanity or Incapacity of Miss Thibault.

Sixteen witnesses testify on this subject.

a. Burdeno (fols. 56 to 84) describes her behavior; knew her from childhood; a lunatic, and incompetent to understand the deed.

b. Emily Lognon (fols. 84 to 87) describes her behavior; knew her 30 years; incompetent.

c. Jas. W. Sutton (fols. 88 to 90) knew her 20 years; not of sound mind; gives her actions. An intelligent American.

d. Gilbert Lognon (fols. 93 to 96) knew her 45 years; describes her actions; thought she was insane, and that it ran in the family.

e. Clement Lafferty (fols. 99 to 103) lived 100 feet from her 30 years; particularizes her condition.

f. Thos. Coquillard (fols. 104 to 108) knew her intimately from 1814; she had not her mind.

g. Maria J. Sutton (fols. 109 to 121), an intelligent American, knew her 6 years; describes her filth and profanity as well as her unsoundness. Her illness (fol. 113); eating with her fingers (fol. 115); vermin (fol. 115); praise and dispraise of Dolsen (fol. 116) alternately.

h. Jos. Loranger (fols. 125, 126) knew her 14 years; she was insane, and could not understand such a deed.

i. Peter Lafferty (fols. 129 to 132) knew her 14 years; peculiar and not strong minded.

j. Jos. Knapp (fols. 134 to 141) lived in the house with her two years; describes her behavior. *This was specially indicative of insanity, and this testimony should be read in full.*

k. Eli Allore (fol. 148) describes his visit to her; she was not in her right mind.

l. Dr. Truedell (fols, 150 to 169) *her physician from* 1838. Insane. *His testimony should be read in full, in connection with that of Dolsen, defendant's agent* (p. 139). He says, "I know she was not competent to transact any business whatsoever" (fol. 160, also fols. 175, 176). The doctor informed Dolsen that she was insane, and could not survive her then sickness (fols. 164, 169); that Dolsen admitted she was crazy, and said he didn't care (fol. 169); Dolsen in his testimony admits this conversation with the doctor, and does not deny that he said she could not survive (fol. 441); Dolsen also admits that he said it was a matter of doubt and a question of law whether Mr. Jewell could hold the property (fol.451).

m. Elizabeth Sutton (fols. 181 to 187) knew her 40 years; particulars of insanity, indecency and incompetence. An admirable American witness.

n. Julia A. Cuvyenn (fols. 191 to 196) knew her 30 years; describes her actions and love of her property. Incompetent (fols. 195, 196).

o. Louisa Cuson (fols. 198 to 205) lived opposite her 23 years; full particulars of her filth, profanity and utter incapacity. Was summoned by defendant.

p. Levi E. Dolsen (misprinted Dobson) (fol. 16) proves insanity hereditary.

All these witnesses speak from long *personal knowledge* and *observation*

Three medical experts, viz: Drs. Lathrop (p. 92), Gilbert (p. 96), and Andrews (p. 87), testify to the incapacity of the grantor. The hypothetical case put to Dr. Gilbert by the defendant's attorney, based on what he admits proved, is declared by the witness to show a case of unsoundness (fols. 336, 337).

The general purport of the complainant's testimony as to incapacity is summarized in the questions to the medical experts (pp. 88 and 96). It is as follows, and while resembling, is stronger than the case of *Handy* and *Harding* below. The grantor was an unmarried French Catholic female, 65 to 74 years of age, possessed of considerable property, and lived alone upon her property, with a garden and trees of her own planting, for 28 years prior to her death, in great degradation and in a miserable hovel. Her family had been noted for mental weakness and partial insanity, and she herself was known as "crazy Kennett." She believed in dreams, and imagined she saw ghosts and spirits and lights around her room, and was wont to send for her physician to ask him if he could not

see them. She was very incoherent, and frequently changed the subject of conversation suddenly and without cause. She used vulgar and profane language, even cursing her priest and physician, and was given to immodest gestures. She was exceedingly filthy in her person and premises, covered with vermin, ate with her fingers, and had thus almost degenerated into a mere animal. She was penurious in the extreme, wearing only a thin calico dress in all sorts of weather, the same winter and summer, and no underclothing, so that her person would be partially visible; and frequently deprived herself of proper food, when she had sufficient means to provide for her wants. She was also very peculiar in her habits, visiting her neighbors frequently and talking about giving away her property, and when questioned about it, flying into a rage and cursing. She always carried an old umbrella with her, spread, no matter what the weather might be She would shut herself up in her room for days, and talk and sing to herself, and dance around her room. In her neighbors' houses and in the streets she would talk strangely and make strange motions and gestures.

It also appears that Dolsen had owned and occupied a tannery on the bank of the river in the city of Detroit, and within thirty feet of her house, for many years, and subsequently sold to the defendant, became his agent, and he and the defendant conversed together in regard to the acquisition of the grantor's property. She became sick and confined to her house, and her physician informed Dolsen that she could not recover from that illness. A workman of the defendant was sent by her to summon Dolsen, who had been trusted by her before, and he contrived the sale and had the papers executed within a few hours thereafter—he, the defendant, and his attorney only being present. $250 was paid for property worth from $5,000 to $15,000, and in about two months the grantor died, and the defendant took possession.

TESTIMONY FOR DEFENDANT

In addition to the complainant's sixteen witnesses and three medical experts, it will be found that the defendant's witnesses confirm the complainant's testimony very strongly.

D. Henderson (*Jewell's workman*) (fols. 339, 350) strongly confirmatory.

Mary Thibo (fols. 351 to 359) also corroborative of complainant's witnesses. *Wife of Jewell's workman.*

Mary Lamere (fols. 364–5), read cross-examination. *Wife of Jewell's workman.*

Augustin F. Roehm, butcher (fol. 370). This witness stands alone in saying he noticed nothing odd or peculiar about her.

P. G. Belknap (fols. 374 to 380), a blacksmith. He says: "*Many would probably think her sane on some points. I suppose on some points she was insane.*"

J. Wilkie Moore (fols. 381 to 390). He was employed by Mr. Meddaugh, defendant's attorney, to look up testimony (fol. 389), and therefore thinks that she was no more unsound than all the French.

Raphael Lamere (*Dolsen interpreter*) (fols. 391 to 393). Worked in defendant's tannery nine years, and in his employment still; thinks "she had her common sense"; *he had suggested to her to sell to Jewell, as a rich person* (fol. 391).

Victor Thebo (fols. 393 to 402). This witness had worked for defendant twenty years. He *confirms* complainant's testimony as to her insane behavior, but *guesses she was sound!* Says she told him she wanted to see Dolsen, and that he summoned Dol-

sen! He says that, from stinginess, *she was pretty near naked in winter time, and cold* (fol. 399). He also (being Jewell's workman) had spoken to her about selling (fol. 401).

Frank Thebo (fol. 402), another French workman of Mr. Jewell's for ten years, considered her as sound as himself, he not being "*a first-minded man.*"

Mrs. Bristol (fol. 408). Her cross-examination *confirms* the complainant's testimony (fols. 411 to 414), although she did not think her insane. She also said: "They say she is crazy; I don't know," "She was odd in her looks and ways" (fols. 412 to 414).

John T. Ladue (fol. 415) knew her three or four years. This witness is a *partner* and *brother-in law* of the defendant, Mr. Jewell, and had been engaged in preparing the case by looking up testimony (fols. 423, 419).

Levi E. Dolsen (p. 139). The complainant called this witness (p. 91) to prove insanity in Miss Thibault's family, and in rebuttal (p. 156). *The complainant might safely rest his case on the testimony of this witness for the defence* (pp. 139 to 150). He was the spider at the bottom of the web. He furnishes the key to the whole transaction. His testimony is strongly corroborative of all of complainant's testimony, and will be specially discussed hereafter.

Mrs. Abbott (fol. 457) (as well as Mrs. Bristol) was one of the witnesses procured by Wilkie Moore (fol. 389).

The weight of evidence, it is apparent, strongly preponderates in favor of the insanity and incapacity of the grantor. Most of the defendant's witnesses are interested, and several had slight means of knowledge. Nevertheless, as a

whole, the testimony of the defendant *confirms* that of complainant.

The testimony was closed October 11, 1871 (fol. 58), but the cause was not argued before the District Judge until April 4, 1872 (fol. 42), and was not decided till September 3, 1872 (fol. 469), when the bill was dismissed.

ASSIGNMENT OF ERRORS.

The court below erred in not entering a decree declaring the deed void, and that an account be stated before a master, debiting the defendant with the rents and crediting him with the improvements

So far as the solicitor and counsel for complainant are informed, no oral opinion was ever delivered, and no written opinion was ever filed; hence, it is not possible to suggest any particular ground.

LAW.

The cases of cancellation of instruments for fraud or undue influence, on the ground of age, imbecility, etc., are very numerous.

Equitable frauds, where a parent deals with a child recently arrived at majority, where a person of feeble intellect is induced to sell property for an inadequate consideration, where persons, subject to influence, especially women, whether young or old, are prevailed upon to enter into transactions of any character without in-

dependent advice, professional or otherwise, are especial subjects of the jurisdiction.

Nearly all these circumstances are found existing in this case. The grantor was a woman; she was old, she was imbecile, she was without independent advice, and the price was grossly inadequate.

1. Leading Cases.

The case at bar in some respects strikingly resembles two cases in particular in the reports, one in this Court, and one in the Supreme Court of Michigan.

Harding v. *Handy*, 11 Wheat., 103, S. C. 2 Mason, 378. The bill alleged that Comfort Wheaton, about 8 years before his death, began to exhibit symptoms indicating a loss of intellect, and soon became, from various causes, incompetent to manage his estate. His son-in-law obtained from him a conveyance of his property for a nominal consideration, and took possession five years before the death of the grantor, upon the verbal trust to provide for the support of the grantor during life, and on being remunerated, to convey to the heirs. The answer denied the incapacity and the trust, and alleged that defendant was a purchaser for full consideration. The Circuit Court (Story, J.) set aside the deed as having been *obtained by false impressions on a mind enfeebled by old age and other causes*, and decreed an account.

Ch. Jus. Marshall says, p. 121: "We have examined with attention the immense mass of contradictory evidence, which the record contains. A number of persons, and among others the *witnesses* to the deeds, express the opinion that he *was* capable of managing his affairs, and of disposing of his property. This evidence, however, is met by such a mass of opposing testimony, as can scarcely be resisted.

Among the numerous witnesses who testify to the imbecility of his mind, are many who had been long and intimate acquaintances. * * * *

"Some of the witnesses add to their opinion of his imbecility some *circumstances*, on which their opinion is founded, which can not fail to make a deep impression on the mind. Liba Olney says, that he was acquainted with C. W. for the last five years of his life, who for the last fifteen months of them, resided in his family. That during the whole of this time, he appeared to be childish, and incapable of transacting any business. The reasons of this opinion are, that he would frequently *repeat* the same questions, and would several times in the same day ask what day of the week it was. *At short intervals he would talk rationally*, and then would *break off from conversation to singing, and from that to crying. That he would frequently go out in the night and day naked, except his shirt.* That he would frequently break out in *profane language*, and other times *preach.* Several other witnesses discribe the situation and conduct of this afflicted old gentleman, in a manner to add great weight to their opinion, that his faculties were prostrated. Many even of those witnesses, who depose to his competency, declare that the *public opinion and language of his neighborhood* was that his mind was deplorably impaired, and the conduct and declarations of his family, including the defendant Asa Handy *himself*, showed a settled conviction that C. W. was incapable of managing his affairs. * * * *

"The inadequacy of the consideration, as stated in the bonds referred to in the answer, furnishes an additional argument against these deeds. *It was chiefly the support of C. W., for the residue of his life. This proved to be five years, which was a longer time than his age and state of health at the time of the transaction rendered probable, but which was certainly not a full consideration for the property.*

"These various circumstances add so much weight to the opinions of those who depose to the incompetence of C. W., that the mind can not withhold its consent from that conclusion. An issue indeed might have been directed, but we do not think it a case in which this course ought to have been pursued. The degree of weakness or of imposition which ought to induce a court of chancery to set aside a conveyance, is proper for the consideration of the court itself; and there seems to be no reason for the intervention of a jury, unless the case be one *in which the court would be satisfied with the verdict, however it might be found.* A verdict affirming the capacity of C. W. to execute these deeds on the 9th of May, 1855, could *not*, we think, have been satisfactory to the court; and it was consequently not necessary to refer the question of competency to a jury. (*Garsed* v. *Beall*, 92 U. S. R., 684, 695.)

"If these deeds were obtained by the exercise of undue influence over a man, whose mind had ceased to be a safe guide for his actions, it is against conscience for him who has obtained them to derive any advantage from them. It is the peculiar promise of a court of conscience, to set them aside. That a court of equity will interpose in such a case, is among its best settled principles. The cases cited in the argument, which we will not repeat, place this beyond the possibility of a question." In the court below, Judge Story says:

2 Mason, C. C. 384. "The material consideration therefore is, whether Comfort Wheaton was at the time of the execution of the deeds to Handy, of sound capacity and discretion to execute such conveyances; and if so, whether, under all the circumstances, they ought justly to be held as absolute, *or as mere security for the advances and charges of Handy.* The evidence as to the degree and capacity of Comfort Wheaton is certainly contradictory to an unusual degree,

and it is matter of no inconsiderable embarrassment to the court, to ascertain what was his real situation. It is however, manifest, that after he was afflicted with a stroke of the palsy, his understanding was much impaired, his habits of life were greatly changed, and his ability to pursue business was materially diminished. * * * *

"If we add to these facts the declaration of Handy, (*substitute Dolsen*) himself, as to the incompetency of the party and his extreme old age and infirmity, it does not seem too much to assert, that the weakness of his intellect was such, that if there was not an absolute incapacity, there was a state so nearly approaching to it, that a court of equity would betray its duty, if it should give a validity to his acts, disposing of his *whole estate*, equal to that of a person in full health and vigor of mind. The acts of a person in such a debilitated state, are to be watched with *extreme jealousy*, and if these are not entirely void, they are at least to be restrained to such effects, as a rational mind would be supposed fairly to contemplate. If I were, indeed, to give full credit to the testimony of the plaintiffs, and it is so highly respectable and cogent, that one is greatly staggered in attempting to diminish its force, a clear case of incapacity would be made out, so as to justify a declaration by the court, that the deeds were utterly void.

"But even admitting every mitigation, which the testimony on the other side can reasonably demand, consistently with the circumstances already mentioned, it is difficult to resist the conclusion, that the party was too imbecile to be supposed capable of making a real disposition of all his estate. * * * * *

"*Extreme weakness will raise an almost necessary presumption of imposition, even when it stops short of legal incapacity*; and though a contract in the ordinary course of things reasonably made with such a person, might be admitted

to stand, yet if it should appear to be of such a nature, as that such a person could not be capable of measuring its extent or importance, its reasonableness or its value, fully and fairly, it can not be that the law is so much at variance with common sense, as to uphold it. Now it appears to me, that Comfort Wheaton was, in the contemplation of his friends and family, and especially of Handy, in this predicament. Handy possessed his confidence, and was nearly connected with him, and assuming he might be capable in law of executing a deed, it is impossible to shut our eyes against the fact, that he was in a *great measure at the mercy of those, who were immediately about him, and disposed to influence him.*"

Seeley v. *Price*, 14 Mich., 541. Price owned a farm worth $6,000, which was all his property. He was about 74 years of age, lived and dressed very poorly, was nearly imbecile and used liquors, was also deaf and ill of a disease of which he died some weeks after executing a deed of his property to his son, which was attacked.

Christiancy, J., delivered the opinion and said (p. 545) that as usual, there was much conflict of testimony, as to the qestion of capacity, and that the evidence did not establish insanity, idiocy, or that degree of mental imbecility, which would of itself render the grantor entirely incapable of executing a valid deed; and that he was able to understand the transaction in question if properly explained to him, but that it was *the clear duty of the court*, "*to refuse judicial sanc-*" *tion to such an instrument, until fully satisfied of the* "*fairness of the transaction, and* that the instrument is the "intelligent act of the person executing it."

The son claimed to have "*been sent for by the father*," (as Jewell claims Dolsen was sent for by Miss Thibault.) Townsend, "*the confidential friend of the son, seems to have* "*acted to some extent, as an agent both of the father and* "*the son.*" (Dolsen was the business man of Jewell, and yet

claims to have been Miss Thibault's agent.) Townsend and the son called on the old man together, (as Dolsen and Jewell and the latter's attorney called on Miss Thibault.)

I shall cite but one more case on the general doctrine, and principally for the observations of the court, in regard to the *shifting of the burden of proof to the defendant, in such cases, to show that he can justify what* has been done, *to show that* (1) *the grantor was really a free agent*; *that* (2) *she had adequate independent advice*; that (3) she *was not taking an imprudent step under influence*; *and that* (4) *she perfectly understood the nature and extent of the sacrifice, and was desirous of making it*; *the burden of proof being first on the complainant, to show the circumstances.*

Savery v. *King*, 5 House of Lords cases 626, 655, (1856.) A son recently of age, made over his property to his father, for an inadequate consideration, and *twelve* years afterwards, filed his bill to set aside the conveyance. Lord Chancellor *Cranworth*, on page 655, uses the language above italicized.

Fol. 19, the answer assumes the burden, alleges *full possession* of her mental faculties, etc. Of this the defendant must satisfy the court, and he utterly fails.

2. Notice to Agent.

Our theory of the case under argument, in regard to the question of *agency*, is, that Dolsen was simply and solely the defendant's agent, and that his claim to have been also the agent of Miss Thibault, is untruly put forward by himself and Frank Thebo, one of the defendant's workmen. Knowledge of an agent is notice to the principal, and although the latter may not *actively* participate, yet if he be looking on at what is done by his agent, and advises in regard to a particu-

lar matter called in question as fraudulently accomplished, and then take, and profit by the fruits of what has been done, he will be taken as affected by the knowledge of his agent.

May v. *LeClaire*, 11 Wall., 217. May filed a bill against the *executors* of LeClaire, in the U. S. Circuit for Iowa, and the bill was *dismissed*, (as the bill in the case at bar was dismissed.)

LeClaire was an old Frenchman, made rich by the growth of a large town. Cook was his agent and attorney, (and a banker as well.) May and LeClaire had been partners, and made a settlement the net result of which, by a fraud of Cook, was, that LeClaire got a title to May's farm, without an equivalent. The bill was filed after LeClaire's death. This court *reversed the decree of dismissal below*, held LeClaire affected by Cook's knowledge, and a trustee for May, who was to be credited with annual rent and interest from the time he parted with possession, *without any tender on his part.*

If in addition to being Jewell's agent, of which there is no room for doubt, Dolsen was also Miss Thibault's agent, as he claims, then the case is within the principle of the numerous cases holding that the character of vendor and that of purchaser cannot be held by the same person. They impose different obligations. Their union in the same person cannot be tolerated, and a party selling on another's account, is prohibited from buying on account of still another.

3. Lack of Independent Advice.

The books abound with cases upon this subdivision.

Kempson v. *Ashbee*, L. R. 10 Ch. App. 15, (1873), (11 Moak's Eng. Rep., 410.) A young woman, at the age of 21, and again at the age of 29, executed a bond as security for her step-father's debt. The latter's solicitor prepared the

papers, and testified that he explained the transaction to her fully, (as Dolsen testifies he did to Miss Thibault.) The bonds were cancelled. Ld. Ch. Cairns, put his decision upon the ground, that the young woman had no independent adviser. Ld. Jus. James said: "This court has endeavored "to prevent persons subject to influence from being induced "to enter into transactions without independent advice."

S. P. Savery v. King, above.

Dolsen's advice was all this woman had, and he was the purchaser's agent.

4. Lapse of Time.

This is not suggested as a defence in the answer, and I advert to it merely because it is incomprehensible to me upon what the defendant relies, or on what ground the learned district judge dismissed the bill.

The principle is that lapse of time will not be considered, if the *status* of the parties has not changed

Wollaston v. *Tribe*, 9 L. R. Eq., 44. A marriage settlement was made in 1858, and the complainant, the married woman, ascertained shortly after, that certain of its provisions were inserted without her knowledge and contrary to her intentions. Her husband died in 1865, and the bill was filed in 1868, about 10 years after knowledge. It was suggested by the defence, that material information might have been had from the husband, so that a change had occurred.

Lord Romilly, M. R., said. "Great stress has been laid "on the lapse of time; *but I think nothing of that, because* "*all the persons interested are in the same state now in which* "*they were then. If there had been any dealing, which had* "*altered the state of matters, that might have raised a question,* "*but there is nothing of the sort.*"

These remarks are precisely applicable in the case at bar.

In *May* v. *LeClaire*, *above*, the transaction was had in 1859, and the bill was not filed for many years after LeClaire's death, was dismissed below, and did not reach this court till 1870.

In *Kempson* v. *Ashbee*, *above*, the transaction was had in 1859, and the bill was not filed till 1872.

Coutts v. *Acworth*, L. R. 8 Eq., 558. On page 566, omission to file a bill "*solely for want of means*," is considered an excuse.

Hatch v. *Hatch*, 9 Vesey, 292. In this case a conveyance by a ward, on attaining majority, to her guardian, was set aside, after 20 years.

The analogy of the statute of limitations in Michigan, of fifteen years, is to be followed in considering the objection of laches.

New Albany v. Burke, 11 Wall., 96, 107.
Beaubien v. Beaubien, 23 Howard, 191.

Complainant could have maintained ejectment in a court of Michigan within fifteen years.

2 Comp. L. 1871, p. 1974, the law taking effect Jan. 1, 1864.

Complainant delayed only six years for want of means, and there was no change, by death of parties, or of witnesses, or by dealings. The grantor died February 4, 1864 (fol. 15), and the bill was filed December 3, 1870 (fol. 22).

5. Kind of Evidence to prove Incapacity.

Beaubien v. *Cicotte*, 12 *Mich.*, 459.—The case arose upon the will of Antoine Beaubien, probate of which was refused in the Probate Court and the Circuit Court on appeal. The will was opposed on the ground of *incapacity*,

fraud and *undue influence.* The errors alleged by the proponents in the Supreme Court were the improper reception and rejection of testimony, and the main question argued and discussed by the court was the kind of evidence admissible to prove the testator's capacity, and the witnesses competent to give their opinions on the subject. It was held as follows:—

1 There is nothing in the nature of inquiries concerning mental capacity, which requires courts or juries to be informed by other than ordinary witnesses.

2. Therefore in an inquiry concerning mental capacity to perform a certain act, witnesses, not experts, may testify to their opinions based upon their observations.

DOLSEN'S TESTIMONY. (Pp. 139–150.)

I would be quite willing to rest the case for the complainant on this testimony alone. He had more knowledge of the history, family and miserable condition of this old creature than any witness on either side. He substantially in his testimony admits and confirms the testimony for the complainant and the allegations of the bill as to her physical and mental condition.

1. He was a Frenchman; had lived in Detroit since 1814; knew the woman, her parents, sisters and brother, and their family mental weakness and partial insanity, which he illustrates by instancing, that each member of the family ate at a separate table (pp. 91, 92, and also p. 148).

2. In 1850 he owned and occupied the tannery within 30 feet of the woman's hovel which she called home and saw her every day. Five years after the tannery was sold to Mr. Jewell, and Dolsen became his tanner and carried on the business for him (pp. 425, 442, 443).

3. Mr. Jewell, when he bought of Dolsen, told him that he (J.) would like to buy or rent the woman's property, and Dolsen said *she would not sell as long as she lived* (fol. 430, D. fol. 456).

4. He admits that he stated before the transaction that she was crazy (fol. 441). He made this statement many times (fol. 168). He said, in French, she was "*fal*" (fol. 169).

6. He was informed by her physician, as the latter testifies, and Dolsen *does not deny it*, that the woman could not survive her then illness (p. 67, also p. 69). This was November 4, 22 days before the deed was obtained. The date is fixed by an entry in the doctor's book (fol. 170). The doctor also, as he *told Dolsen*, thought it necessary to have the priest to administer the last sacrament of the Catholic Church (fol. 167). Aside from this her "*expectation* of life" was *nil*. Dolsen then told the doctor that he (D.) *wished to buy the property for Gov. Jewell* (fol. 166) and the doctor told him she had no capacity to sell.

7. He prepared the way and conducted the business, and the entire talk with the woman when she made the deed was conducted by him only and in French.

8. He was the trusted friend of the woman; had acted for her in renting, and she confided to his care the $250, which Mr. Jewell paid her (fols. 433, 448).

9. He admits that he stated *after* the transaction that it was a "*question in law*" and a "*matter of doubt*" "*whether Mr. Jewell could hold the property*" (fols. 451, 452).

10. He says she asked $9,000 (fol. 428), and valued the land because she had a garden and trees of her own planting, and refused to sell (fol. 448).

11. His testimony (pp. 146 to 150), shows that he was fully aware of the worthlessness of the deed.

12. He became her administrator, and paid the complainant her money under the order of the Probate Court.

MR. JEWELL'S TESTIMONY.

It is profitable to look at this immediately after having read Dolsen's testimony, and the testimony of complainant's sixteen witnesses, as to the woman's condition. Her shanty was within thirty feet of his tannery (p. 147 top, Dolsen). Mr. Jewell says: "I have seen her a great many times" (p. 150 bottom); "*I had seen her about* there for ten years" (fol. 454). He was actually inside her miserable hovel once, when the deed was executed, and witnessed the degradation in which she lived, and wondered how she could *exist* in such a condition, and *told Dolsen to get her a bed or some clothing* (fol. 455). He knew her to be eccentric, queer and penurious (same). He had talked about securing that lot, but "*with nobody but Dolsen*," and Dolsen had told him "*she will never sell it as long as she lives*" (fol. 456). And yet his attorney would have us believe that she *offered to sell*, and that Dolsen was *her* agent!

Beyond all doubt, he was Mr. Jewell's agent, but we see that the old creature's mental and physical condition, as portrayed in the testimony, had been directly under Mr. Jewell's own eye for ten years. That eye was "*an eye to business*," which constantly perceived the "*situation*," and was ready to profit by it. And he was fully aware of the relation subsisting between Dolsen and the woman.

HASTE.

The deed was prepared and executed the same day that Miss Thibault sent for Dolsen (fols. 429, 448).

It was drafted with such haste, that the property is described as in the town of *Springwells*, and *Territory* of Michigan, instead of the *city of Detroit*, and *State* of Michigan. There was no time to change the description in the ancient deed of 1832 and make it correct as of the date of the transaction.

INTENT TO DECEIVE.

An ear-mark is visible on the deed itself, namely, a provision that the purchaser shall pay all the *taxes* during the *natural life* of the grantor! Of course, this was intended to impress the woman with the belief that the instrument was simply a *life-lease.* It was never heard of that a man buying a piece of property should obligate himself to pay the taxes on the property which becomes his own.

This is also to be considered in connection with Dolsen's testimony as to the making of the bargain. She told Dolsen emphatically that she would not sell the land at all, when he told her Gov. Jewell would buy it. Dolsen then told her that he had "*rented*" the land for her to a Port Huron man ten years before, and that she had refused to execute the papers, and had thereby lost the *rent* for that time. She said she wished she had it. Dolsen then asked her, "*What will you take a year for the premises, during your lifetime; how much?*" She said, $400 per year. Dolsen replied, that it was not *enough* (!) to support her, and he could get $500 for her, and she said she would dispose of it (fol. 429). *He*

does not speak of a sale, nor of a bond nor of a mortgage, *nor of* $250 *consideration to be paid down.* What she would take a year, it is manifest, she considered *rent* and not an "*annuity.*" The term "annuity" she could not understand. Besides, the deed allows her to remain in her *house* till *spring*, when she would be in the narrow house!

Nor when Dolsen reported to Mr. Jewell was anything said of the $250 or a bond or mortgage (fol. 451).

Moreover, the $250 appears as deposited by Dolsen to her account in bank, November 23, the day *before* the date of the deed. Dolsen swears the money was paid to her when the deed was executed, and handed back to him to deposit (fol. 433). It was very easy for Dolsen, in translating, to omit the words about $250. *Not a word had ever been said by or to her about the $250, until it was handed to her and handed back!*

VALUE IN NOVEMBER, 1863.

The answer admits $5,000 (fol. 16).

N. W. Brooks, $5,000 or $6,000 (fol. 74).

James W. Sutton, $16,000 (fols. 87–91).

Dr. Trudell, $10,000 to $15,000 (fol. 164). "Says she was offered $5,000 to $7,000 many years before."

Wilkie Moore offered $5,000, four years before her death (fol. 383).

Miss Thibault herself considered $9,000 the value (fol. 428, Dolsen), and said that by and by she would have it covered with gold, and she would not sell till she had her price (fol. 193, Cuvyenn).

THE CONSIDERATION.

Marshall, C. J., above, says that the actual support of Comfort Wheaton for the five years which he survived was *certainly not a full consideration for the property.* There was also a consideration of $2,178.

He also says that five years was a longer time than Mr. Wheaton's age and state of health rendered probable at the time of the transaction.

In the case at bar, the grantor lived two months and eleven days, and it does not appear that the defendant supported her for that time, or ever paid her the proportion of the "annuity of $500" due for that time. So that there was no actual consideration but the $250. Moreover, the grantor's *chances* or expectation of life was *nothing*, aside from the information sought for and obtained by Dolsen that she would not survive.

A bond for an annuity was a ridiculously inadequate consideration when it was apparent that she could not live and her physician also so advised.

It is to be noted that the answer does not deny that the consideration was inadequate or insignificant absolutely, but only *relatively*, "under the circumstances" (fol. 17). But those circumstances are particularly against the adequacy of the consideration.

THE MAKING OF THE PRETENDED SALE.

Dolsen had been sent for by her. She simply wanted him to take her to live with himself. Dolsen suggested that she should sell to Gov. Jewell (p. 141 top, 7th line), and yet

the answer innocently states that the conveyance was "unsolicited by this defendant or by any one else in his behalf" (fol. 19). She said she would not sell. He then told her she had lost much rent by not renting, and asked her what she would take a year for the premises during her lifetime. She said $400. He went to Mr. Jewell at once, and the same day returned with Mr. Jewell and his attorney, Mr. Meddaugh, and not having seen the woman in the *interim* (fol. 432), went in advance of the other two, and when they entered, read the deed and the acknowledgment in French. It was three to one: the grantee, his business agent, and his legal agent. The latter was the acknowledging officer. What is the office of an acknowledgment? The protection of the grantor by ascertaining the freedom of the act and the intelligent nature of its performance. Mr. Meddaugh could not understand anything on this point. Dolsen was "the be-all and the end-all" there. Moreover, Mr. Meddaugh was brought there by the interest adverse to the woman (fol. 431). Dolsen himself does not undertake to pronounce her sane, although, of course, he says he believes she "understood the paper" (fol. 435). *His entire testimony should be carefully read.* Beyond question she trusted him, and he deceived her for Jewell's benefit.

A bill is now before the Michigan Legislature, introduced by Senator Baxter, providing that hereafter no deed of land or other conveyance, made by aged, infirm or weak-minded persons for the consideration of after-support, shall be valid until a judge of probate has approved the bargain.

Suppose such a judge, or any independent counsel, or friend, had been with this unfortunate creature; of course the transaction would have come to a sudden end, although Dolsen says (fol. 449), "Really, I did not think at the time the bargain was such a great thing. It turned out much better than I supposed!"

There is *no bond in proof* and no evidence of any *delivery* of the mortgage, *and no evidence that the woman knew there was a mortgage.* The only evidence on the subject is in folio 432, when Dolsen says he entered before Jewell and his attorney, and explained to her that she was to take back a bond. Jewell and Meddaugh had prepared the deed before they had seen her. They took it to her with Dolsen, and no one else in the world, neither her priest, nor her physician, nor any of her neighbors, nor of the owners of adjoining river fronts who might compete for the property, was suffered to be aware of the transaction.

MR. MEDDAUGH'S TESTIMONY.

Mr. Meddaugh himself testifies (fol. 466), but he is silent where we should expect him to speak. He utters not a word as to his instructions, who conferred with him, when, etc. He gives no details of the transaction,—the woman's appearance, or surroundings, no *opinion* as to her capacity or comprehension of what she was doing, although he was the acknowledging officer. His testimony is conspicuous for the absence of all these things, and his silence is *extremely significant!* He appears in this court for the defendant.

REPLY TO THE DEFENDANT'S BRIEF.

1. That brief is principally an attempt to criticise the complainant's testimony as to *insanity.*

The insanity is fully established, but its establishment is not necessary to the complainant's case. Weakness and incapacity not amounting to insanity is quite sufficient within

all the authorities. So also is the absence of all independent advice, which important point the defendant's brief utterly fails to notice.

2. That brief also refers to *laches*. This is not pleaded, was 6 years, not 7 as that brief states, and I have shown above that there has been no change of circumstances at all; or death of witnesses; that the delay is not within the statute, and that the defendant may, (if the court thinks just) be credited with the value of the improvements, which he made with his eyes open. The authorities cited in regard to improvements on p. 48 establish nothing applicable to this case. They simply hold that in cases of certain sales of timbered lands, the court would not rescind between competent parties on particular facts.

3. That brief suggests that the district judge saw and heard the witnesses. Such is the case in all appeals in equity and admiralty, but as the testimony was closed October 11, 1871 (fol. 58), the argument had April 4, 1872 (fol. 42) upon the written testimony, and the decision not made till September 3, 1872, after the lapse of nearly a year, it is apparent that the decision could not have rested on the demeanor of witnesses.

4. To meet the obvious force of the point that Dolsen, the defendant's agent, (although his attention was drawn to the statement of Dr. Trudell, the woman's physician, that Dolsen asked him if she would live through that disease, and the doctor's reply that she could not, and was under incapacity to make a deed, and that Dolsen said she was "*fol*" or crazy, but he didn't care, read pp. 67, 68), failed to deny that he was informed she could not recover, although admitting he said she was crazy, the brief claims that the defendant's counsel were in fault because they did not ask him to deny it! This requires no reply.

5. That brief (p. 43 middle), *admits* the heirship of the complainant, but insinuates, in various places, that because he did not contribute to his aunt's support, Mr. Jewell was quite justified in taking away his (complainant's) valuable landed inheritance, for $250 and an agreement to pay an annuity to a dying woman!

6. That brief claims that imbecile behavior, such as the witnesses detail, solitary habits, belief in dreams and spirits, vulgarity and profanity, in a female of property, carefully and religiously nurtured, revolting personal filth and eating with the fingers, in such a female, mental weakness of parents and uncles, age, and disease, all of which that brief *impliedly admits* are established, do not show incapacity to convey. This requires no answer. Indeed, I should almost be satisfied to submit the case on the defendant's brief. Upon that it is evident that the facts on which complainant's case as to incapacity rests are matters of certainty.

7. On page 48 that brief contains these words: "I sub-"mit this case to the court with *entire confidence* that the re-"sult will be a confirmation of the decree of the Circuit Court. "*The defendant is undoubtedly known both personally and* "*by reputation to your honor.*" Such an argument needs rebuke and strikingly illustrates the conscious weakness of the cause which it is put forward to support.

FINALLY.

As said by the Vice-Chancellor of England, in *Coutts* v. *Acworth*, above: "I am of the opinion that this deed is "open to almost every objection that can be brought against "a deed of the kind, and was, from the moment of its being "signed, sealed and delivered, *a void deed.*"

I am amazed that the learned district judge dismissed the bill. The defendant's agent, a layman, was well aware of the infirmity of the title (as he stated, fol. 451), but, as is most plainly apparent, he and the defendant, knowing the advantage of *possession* with color of title, knowing the woman to be incapable and *in extremis*, seized the property and *took the chances!* They, with their attorney, attended this sick, solitary and imbecile old woman, alone, without the presence or knowledge of another human being. The agent, her trusted friend, preceded the other two, to prepare what they are pleased to call her mind. After the defendant and his attorney came in, the agent conducted the proceedings in French, although she understood and spoke English (Eliz. Sutton, fol. 187; Roehm, fols. 366, 370), and put his *own construction* on the deed written in English, which the attorney had prepared *with such haste* that he described as in the town of *Springwells* and *Territory* of Michigan, when for many years it had been in the city of *Detroit* and *State* of Michigan, having no time to alter the description in the old deed. The deed, moreover, contains a provision well calculated to mislead the aged woman into the impression that it was a life-lease, a common instrument among the French (always willing to lease but never willing to sell) — the defendant is *to pay all the taxes during her natural life* Thus the wealthy defendant obtained from this miserable old foolish creature, for the paltry sum of $250, a landed estate which she valued at $9,000 (fol. 428), including her old homestead and garden and the trees she had planted, on which she placed such a *pretium affectionis* that she had refused to rent on that account (fol. 448, Dolsen's testimony). And the $250 she immediately returned to Dolsen, who placed it in a bank, where it was found *untouched* after her death (fols. 433, 447).

Mr. Jewell and his agent Dolsen knew perfectly well that the deed was worthless, but they also knew the advantage of

possession with a show of right, as against a single poor relative whose helplessness was well known to Dolsen.

The defendant completely fails to show what he states in his answer. and what *Cranworth* and *Marshall* and *Story* and *Christiancy* (above) require, that the grantor was a free agent, that she was not under influence, that she perfectly understood the nature of the deed, and that the transaction itself was fair. Wherefore, as *Christiancy* says, it is the clear duty of the court *to refuse judicial sanction to such an instrument.*

1 Kings, ch. 21. Naboth had a vineyard, and Ahab desired it because it was *near* his house, and wished to *buy* it, but Naboth refused to sell his *inheritance.* But Ahab took *possession* after Naboth's death. Indeed, Naboth being a man and sane, no deed could be got. So Ahab had him killed. This woman was about to die, and possession could not be taken without *color* of title in these modern days; and, she being incompetent, a deed could be got, that authorized possession.

The decree should be reversed, with directions to enter a decree in conformity with the prayer of the petitioner.

ALFRED RUSSELL,
Of Counsel for Appellant.

Supreme Court of the United States

No. 220.

ELI ALLORE,
Complainant and Appellant,
vs.
MARSHALL JEWELL,
Defendant and Appellee.

Appeal from the Circuit Court of the United States for the Eastern District of Michigan.

BRIEF FOR DEFENDANT.

MEDDAUGH & DRIGGS,
Solicitors for Defendant and Appellee.

DETROIT.
FREE PRESS BOOK AND JOB PRINTING HOUSE.
1877.

SUPREME COURT

OF THE

UNITED STATES.

ELI ALLORE
vs.
MARSHALL JEWELL.

BRIEF FOR DEFENDANT.

On the 24th day of November, 1863, one Marie Thebeau conveyed to defendant a parcel of land in the city of Detroit of the value of about $5,000. The consideration was the payment of $500 per annum, in semi-annual installments by defendant to the grantor during the period of her natural life, and the charges of a physician for medical attendance on her. As security for this defendant executed and delivered to the grantor his personal bond and a mortgage upon the property conveyed to him. Concurrently with the delivery of the deed to him defendant paid $250 to the grantor. On the fourth day of the following February the grantor died.

The defendant, and those interested with him in this

purchase (the members of the firm of P. Jewell & Sons) immediately after the death of the grantor entered into possession of the property, and made valuable and permanent improvements on it, to the value of some $7,000.

Nearly seven years after the death of the grantor and the making of these valuable and permanent improvements, complainant, who is the *reputed* nephew of the grantor, filed the bill in this case to set aside said conveyance.

There is no explanation offered, either in the bill of complaint or in the proofs, of this long delay of complainant in asserting his claim. I call attention to this now only to say that, after having slept so long on his rights and suffered this expenditure of money in permanent improvements of the property, the court should hold complainant the more rigidly to the *onus* of clearly establishing the facts on which he bases his claim to relief.

The case made by the bill for setting aside this conveyance is that the grantor was, at the time of executing it, in a condition of "chronic insanity;" that she was physically infirm and mentally incapable of understanding or properly transacting any business; that defendant, through the agency of others, by undue influence, induced her to make the conveyance, and that she did not understand the nature and effect of the transaction.

The answer, while admitting the averments of the bill as to the ill-health of the grantor and her age, denies that she was "afflicted with lunacy or chronic insanity," and avers that, at the date of executing said conveyance, she was in full possession of her mental faculties, appreciated the value of said property, was capable of contracting with reference to it, of selling or otherwise dealing with it." It also denies all averments of the bill that

improper or undue influence was used to induce the conveyance, and avers, on the contrary, that the grantor solicited the arrangement.

The testimony in the case is confined to showing the mental condition of the grantor.

The issue is thus a comparatively simple one.

The decree of the court below was in dismissal of the bill. The hearing was before the late Hon. John W. Longyear, District Judge.

I desire to call the court's special attention to the fact, appearing in the record, that all the testimony, by consent of solicitors, was taken in open court, in the presence of the judge, who was thus afforded, what your Honors cannot have, the advantage of both *hearing* and *seeing* the witnesses whose testimony he was to weigh and consider. This is an advantage the importance of which I need not dwell upon in this tribunal. To call your Honors' attention to it is to insure not only its appreciation, but its due and proper weight in considering the propriety of reversing this decree.

Usually in cases of this character the testimony is addressed to a series of peculiarities or characteristics in the subject of inquiry, and is thus capable of being grouped under different heads. But it is not so in this case. Each witness describes the woman's manner of dress and general behavior, narrates items of her conversation, and gives an opinion as to her mental capacity. The trivial character of most of this evidence can be best illustrated and shown by a fair abstract of what each witness has said. I have therefore pursued this course, and believe the following is an accurate statement of the proof.

ABSTRACT OF COMPLAINANT'S TESTIMONY.

Augustus Burdeno (Record, pp. 14 to 23.) Was acquainted with Miss Thebeau fifty-five or sixty years; up to 1861, when he enlisted in the army, saw her once a week, or oftener; met her a few weeks before she died. She was weak then, wanted to make her home with him, said she couldn't live long. He said to her, "If you think you are going to die, make your peace with God, and fix your business, and have everything right." "She waited a while, and then turned round on me and said, 'you are no better than the rest.'" She said "You are no better than Dolson. I suppose you want to get my property too."

"I never knew her to be of sound judgment." (Rec., p. 19.)

"I call it kind of lunatic, out of her head some; and then again they were all right."

"Don't think she had her right mind. Her mental and physical condition grew worse in her late years."

Cross-examination. (Rec., p. 20.) Saw her in 1862, on his return from the army. Inquired how he got along soldiering; whether he had been wounded; if any of their friends had been killed—naming several young men. She had abused the priests and doctors for many years. Would sometimes flatter them. Was penurious."

Wanted witness' wife to take her property and support her.

Thinks she had means, but hidden, "salted down."

"Very careful about money affairs." When all right she would understand a deed of conveyance. (Rec., p. 21.)

"Alexander Lafferty," she said, "made out a paper and came here, the rascal, and wanted to cheat me. The

paper was not right." "She said it was a deed of property." (Rec. pp. 21–22.)

Wore the same clothing summer and winter.

> This testimony, so far as it shows anything that the woman did or said, indicates that she possessed at least as high a degree of intelligence as that manifested by witness.
>
> His opinion as to her mental capacity or condition, if admissible, is entitled to no weight.

N. W. Brooks. (Rec., p. 23.) Knew Miss Thebeau from seeing her on the streets for ten years.

She spoke broken English; "was very tiresome—very monotonous, repeating same thing a great many times;" "Was a very eccentric woman, perhaps bordering on dotage." Cannot tell anything that she said or did tending to show her mental condition. "Everything she said to me was in broken English," and was very difficult to understand. "She was quite old and very eccentric;" carried an umbrella, rain or shine, *but did not spread it when no occasion for it.* (Rec., p. 24.)

Wanted to sell him the property in 1863; declined to purchase because, with her idiosyncrasies of character, thought that he would be put to a great deal of trouble—more than the property was worth. "*Recommended her to go to some French friends and deal with them.*" (Rec., p. 24.)

"My idea was I should not like to trade with her. Perhaps I might get a French interpreter and get her to do it, but I thought it would be more trouble than the property was all worth." This was on the ground of the difficulty of understanding each other. Found no change in her condition for the last four or five years. (Rec., p. 25.)

Cross-examination. In talking she repeated a good deal, perhaps in trying to make a strong impression, or to make the witness understand.

"Did not get the impression that she was insane," nor that she was idiotic.

"Take any person in ill health at the age I suppose she was (74 years of age I suppose) you never see that brilliancy of mind that you do at the meridian, and I thought she was on the failing side of her mental capacity." (Rec., p. 25.)

"Did not get the impression that she was insane or imbecile."

Re-direct examination. (Rec., p. 26.) The witness in further explanation of why he refused to purchase the property of her, says: "I was under the impression, knowing the woman as I did, I might see her from eight to ten times a day during the balance of her life, consequently I did not like to have anything to do with her."

There is nothing in this testimony which tends to show that this woman did not possess the requisite mental capacity or soundness, unless it be the opinion of the witness, and even this, if entirely true, falls far short of establishing it.

Mere garrulity is hardly evidence of insanity or of a disqualifying degree of mental weakness. It may render its possessor annoying, but it is fortunate for many people of both sexes that it is not ground for sentence to the mad-house or an asylum for idiots.

The repetition of this woman in conversation is accounted for by the witness. It

no doubt arose, as he suggests, from difficulty in conveying her meaning, and an effort to make herself understood.

Emily Lagnon. (Rec. p. 26.) Lived one winter in same house with Miss Thebeau, some twenty years before her death. Saw her five or six times afterwards. Once at Mrs. Sutton's, some six weeks before her death.

Was well when witness first knew her, but "kind of light-headed all the time." When you talked with her she had no kind of right sense. She would talk one day one thing and the next another. When reminded of her property, and urged to live better, she would say "I think I live well enough." (Rec. p. 27.)

In illustration of her talking "one thing one day and another the next," the witness gives this: "I says, Miss Thebeau, sell out your property and better yourself. No, says she, I would not because they want to fool me, says she they can't do it, I know enough, they won't give me what it is worth. And says she I won't. I will keep hold. Don't you think I do right? I says, but may be you find a good price, and says I you have no one to leave behind; says she, I have a nephew, I think about him." (Rec. p. 27.)

There is certainly nothing in any of this talk that indicates either insanity or imbecility of the grantor, while the testimony of the witness, the matter and manner of her answers to questions clearly show that she does not possess the highest qualifications, to say the least, for expressing an opinion of mental capacity.

A few weeks before her death, she appeared to be sick. She had not the appearance of an old feeble woman. When

being talked to she would sometimes play with the children, or sing, or take hold of the little girl, or cat, and dance. She never dressed appropriately—very poor—common. *Sometimes a little better in winter than in summer.* Carried an umbrella and had it open when it rained, the sun shone, or was cold. When dancing "she looked awful wild." Does not think "she had sense enough to understand" the deed of conveyance. (Rec. p. 29.)

Cross-examination. She could read and write English, French and Latin; could speak Latin. Used to read French story books to the witness.

John W. Sutton. (Rec., p. 30.) Not personally acquainted with Miss Thebeau, but saw her in the street and at his house. When she was at his house he would *ask her to give him her property, and she would then go.* Never saw her do much of anything; did see her dancing once in his kitchen; understood she was a good fiddler; heard her talk but very little; can't recall what she ever said; thought her crazy from his first knowledge of her.

An umbrella generally under her arm, rain or shine.

She pretented to be a school teacher; does not think she was of sound mind, or could understand the deed of conveyance.

Cross-examination. (Rec., p. 31.) Never tried to buy this property of her; has heard that she offered it to his son; always thought her insane, eccentric in dress, and everything else.

> Here again there is nothing except the witness's opinion. No acts or utterances of the woman that have any special bearing on the question.
>
> She carried an umbrella, and he saw her dancing once!

This witness denies that he ever sought to purchase the property of her, but says his son did.

The son's wife—as we shall see hereafter—says that her husband did not, but that her father-in-law did.

Whatever the fact may be, it is of no importance except as accounting for a slight manifestation of zeal in the members of this Sutton family in bearing strong testimony to this woman's incapacity, and further, as showing that they were quite willing to transact business with her, thus affording the means of properly estimating the weight of their opinions that she was insane or imbecile.

Gilbert Lagnon. (Rec., p. 32.) Knew Miss Thebeau about forty-five years; latter part of life saw her nearly every week; she was "light-headed a good deal of the time." (Rec., p. 33.) "It run in the family; they were all silly; they did not know much."

She "was silly, very silly, in her ways." "Sometimes she would want to sell, and then she would not."

Was once going to pay her taxes. "She was to give me silver for an order I had. She went up and down stairs, I guess, fifteen times for the money that amounted to fifteen dollars. This was ten years ago. Have seen her dancing and playing a fiddle; thought she was insane."

Cross-examination. (Rec., p. 34.) She had quite a taste for music; played the fiddle well; she wanted to sell her property once, and then backed out; it was fifteen or sixteen years ago that the transaction about the taxes occurred. Sold her a school order—a seventeen or fifteen

dollar order. She asked to purchase the order. (Rec., p. 35.) Did not think she was crazy then; "she was light-headed."

Claffin Lafferty. (Rec., p. 36.) Knew Miss Thebeau for thirty years. Saw her every day two or three times a day. "She was a person that at times seemed to have her right mind; acted very much like a person would who had her right mind."

"Would always dress contrary to the season." "In summer, at times, I have seen her wear more clothing than she would in winter, apparently."

Carried an umbrella "right open," sometimes reserved, and then would use indecent language; she would sit like a man, put her legs out, her fists in her side, and act very odd; would talk against the priests, ridicule them, saying all they wanted was money. When acting in this way, she did not talk connectedly; run from one thing to another. There was vermin on her after her death.

Cross-examination. (Rec., p. 38.) She disliked the priests; thought all they wanted was money. She was "close, or stingy."

Thomas Coquillard. (Rec., p. 38.) Knew Miss Thebeau since 1814; saw her twice the winter before she died. She was sick; could not talk much; talked about the bargain with Jewell; "appeared troubled in her mind;" "didn't seem to know what she wanted to do; she was first one way, and then another way;" "towards the last she talked about this property;" "I paid no attention, for I knew she had not her mind;" didn't keep her house very warm; "she was too stingy;" dressed poorly in cold weather.

Beyond the fact that this woman was penurious in the highest degree, dressed

poorly, and was unlike most people in her mode of living, the testimony of the last three witnesses shows nothing. Scarcely any of it rises to the dignity of evidence as to the matter of mental capacity or condition.

Maria Jane Sutton. (Rec., p. 40.) Knew Miss Thebeau for four or five years. Saw her once a month a part of the time, and several times a week subsequently.

"Lots of times she would be talking to herself." Called at her house once, and found her talking to herself. "She looked up and seemed quite amazed." "Seemed wild-like." This was a few months before her death. "She seemed to think a great deal about being rich and taking care of what she had, and going very dirty and filthy, and dirty every way, and I think she was nearly starved." Told the witness she had money in the bank, and said, "that is the way, people must have money in the bank; they must take care of what they have." Two months before she died, gave to witness a pair of gloves. (Rec., p. 42.)

Talked in whispers sometimes. Found her once in the winter without fire, and brought wood to her. She said she was too poor, it took too much money to buy wood. Did not have sufficient food; would eat as if she were nearly starved. Saw vermin on her before and after her death.

Talked about her property. Thought a good deal of Dolson. Then again she would say, "I don't like Dolson." She would swear at these times, and her eyes would "roll around."

Dressed the same in summer and winter. "Do not think she was in her right mind during the time I knew her." (Rec., p. 44.)

Cross-examination. (Rec., p. 44.) Witness' husband did not try to buy the property, but her father-in-law had offered to buy it; talked of buying it." She rolled her eyes a great deal. (Rec., p. 46.)

> What this witness makes Miss Thebeau say is quite as sensible as anything she herself says. The description she gives of her person, dress and habits is, in the main, simply an exaggeration of the facts as given by all the other witnesses on both sides.
>
> The "rolling of the eyes," of which she saw so much, and the "talking to herself," do not find that confirmation in the testimony of the other witnesses that we might reasonably expect, when the habit was so marked and frequent as she avers it to have been.

Joseph Loranger. (Rec., p. 46.) Acquainted with Miss Thebeau for forty years.

Saw her five or six different times during the six months preceding her death. Heard her talk to his mother. Did not think she talked "very sensible." Said to his mother, "I want you to take my property, and keep me during my life, and you can have the property." (Rec., p. 47.)

She complained about the Yankees. She "changed before she finished the conversation about one subject." Her manner and expression seemed wild. "Made up my mind she was not of good mind." (Rec., p. 48.)

Don't think she could understand an agreement like that made with defendant.

Peter Lafferty. (Rec., p. 50.) Knew Miss Thebeau for ten or twelve years before she died. Noticed nothing in her appearance except "that she was very close in her trading, and very talkative sometimes." Talked "about all kinds of things; about my parents, that she knew before I was born; she spoke to me about my mother lots of times." Very apt to talk of one thing, and then talk on another subject. Was once "buying bread of me and one thing and another, and all at once she would begin to talk about being acquainted with my father and mother a long time ago, and drop that and price other things in the store." (Rec., p. 51.)

Her manner always about the same. Would get excited over money matters. Became angry once when he asked her to will the property to him when she died. Said "he would die first." Don't think I would call her insane, but she was very peculiar; she was not very strong-minded, it was my impression.

> Could anything better illustrate the farcical character of such testimony on the subject of mental capacity than the instances given by this witness of her sudden transitions in conversation from one subject to another?

Joseph Knapp. (Rec., p. 52.) Knew Miss Thebeau; lived in the same house with her about two years, some fourteen years before her death.

"She would talk one moment about an Indian and then about a wolf, and be wild about a good many things."

> The witness then goes into details as to disturbances from noises in the room occupied by Miss Thebeau, and what she said

about it. She claimed to have seen ghosts. (Rec., pp. 53 and 54.)

At the bottom of page 54 and on page 55 of the record he gives a description of how she once received the complainant and his wife, and what she said.

> There can be no proper appreciation of the testimony of this witness by any one who did not see him deliver it. His story in its details is evidently a tissue of fabrications. The talk, language, and foolish gibberish that he attributes to her it is not possible for him to reproduce from memory after the expiration of fourteen years. That he claims to do so is enough to destroy all confidence in his testimony. I have no doubt that he learned his lesson at a comparatively recent date.
>
> If this woman was a crack-brained lunatic or idiot, as the testimony of this man tends to prove, the fact could and would have been established by all the people who knew her. More than this, she would have been an inmate of some asylum long before the defendant knew her. Human beings in such a mental state in Michigan are provided for, and public opinion will not suffer them to be neglected.

Eli Allore. (Rec., p. 56.) Complainant in this cause—sole heir of Miss Thebeau.

> The witness narrates his experience on a visit to her; how she treated him, what

she said, etc. The same visit testified about by the last preceding witness, Knapp.

She told witness some *ten* years before her death that she had been offered $400 a year for her property for ten years. At that time he "seen her beginning to break up her story; she broke up in a few words." "She spoke one way, and changed right off to another subject." "*I could not understand what she said; I would understand a word or two, and then I could not understand what she said.*" (Rec., p. 57.)

When witness visited her on the one occasion, she charged him with a design to recover from her some $2,000 she had from his father, and threatened that if he did, he would never get anything more from her. Rec., p. 58.

There is an implication here that she had received from witness's father $2,000, that he was entitled to. There is nothing else about it in the case, and the probabilities, therefore, are very strong that it is false.

Witness saw her for the last time about two years before her death. "She didn't have no mind at all, because you could not understand what she would mean, and what she would say at all." Did not consider her in her right mind.

The witness then says (Rec., p. 59), that soon after her death a message came to him from defendant, Jewell, or from Dolson in reference to settling with him; that he came to Detroit and found defendant had gone East.

The testimony of defendant and Dolson,

as will be seen hereafter, shows that this is a pure fabrication.

I have only this comment to make on this witness's description of his aunt. If he tells the truth he forfeits forever all claim to any interest in her property by his neglect to have a guardian appointed over her, and to make provision for her protection and comfort.

Samuel Truedell. (Rec., p. 59.) Not "a regular admitted practitioner."

Knew Miss Thebeau; was her physician in 1837; saw her daily until 1848 or 1849.

Treated her every year in the summer. "She would complain of dizziness and pain in the bowels." *Advised her to keep her head cool.* From the first, thought she was "working under partial insanity." Down to the time of her death, she remained in about the same condition, only at times she was worse than at others. She talked fast and quick, "with a gesture in a quick manner, in a quick way." Changed "her conversation very often; she never would talk on one subject very long at no time." She died "of a lung difficulty."

Have seen her repairing fence "when the weather was very bad." In reply to a suggestion to postpone the work until better weather, she said "she didn't care; answered very quick, and in very few words."

Many years before her death she told him about seeing a light. (Rec., p. 62.)

Claimed to have seen an old lady who was dead going to the river for water in the day time. Saw her on a "fine, beautiful day" on the street, clad as for winter weather, "dressed very warmly."

When angry, her language was very improper, "curs-

ing, swearing, etc." Would curse different ones—those she had dealings with.

Many times found her house locked, and she would not open it to any one. (Rec., p. 63.)

Hated "her own relatives, *and this is particular evidence of insanity.*"

She believed in dreams, and that dead people could appear. (Rec., p. 64.)

She was not competent to transact business. "I always called her crazy Kennett." She was insane a short time before her death; she was in depressed spirits; did not talk as much as usual. She was coherent when she talked about selling her property." (Rec., p. 65.)

Witness advised her to sell her property.

Don't think she could understand a deed like that from her to defendant.

The witness (Rec., pp. 66–67), testified in a vague and doubting way to an interview with Dolson early in November, 1863, in which the latter inquired about Miss Thebeau's condition, and said that he was going to purchase the property of her for Gov. Jewell. Witness told him that she could not recover, and that "she was not able to sell or make any sale of the property in a right way."

The design of this story is no more apparent than is its falsity. The manner and method of the witness's answer to the questions put to draw out these falsehoods betray a consciousness of fabrication. I call your honor's special attention to this testimony.

Through fault in not recalling just what

this witness had testified to, the witness Dolson was not specifically interrogated as to this matter. But it will be seen, I think, that what he says about the transaction of deeding the property, etc., necessarily shows that Truedell's story is false.

Dolson expressed the opinion that she was crazy.

Cross-examination. (Rec., p. 69.) Talked with a great many of the witnesses in this case about her condition. Been to see witnesses with Naggs.

Admits drinking to excess at times, but denies that he is a common drunkard.

Claims to have made some valuable discovery for the prevention of certain diseases. (Rec., p. 71.)

She told him in December that she preferred him as her physician, but "they (meaning defendant, I suppose) wanted Dr. Pitcher, because they were obliged to pay for the doctors."

The character of this witness for truth, and the unreliability of his testimony, are well illustrated in his citation of writers on insanity. He names three persons, Fovay, Binnell and Esceralls, all of whom are purely imaginary beings. No such name as that of either of them is known to the medical profession as an author or writer in any of the branches or departments of medicine or surgery.

To so cheap and weak a device did this man have recourse to prop up his own intrinsically worthless opinion. He is evidently an ignorant charlatan, a fit instrument of designing knaves for inducing

such of his simple countrymen as had suffered his practice of quackery in medicine upon them, to make exhibition of their own incapacity by testifying to this woman's mental imbecility.

The means adopted to effect this are indicated in the testimony of some of the witnesses—that of Mrs. Cuson, for instance. His story and opinion were carefully reduced to writing in the form of an affidavit. This was taken around to different ones who knew the woman, and with whom Truedell was supposed to be high authority, and read to them. The opinion of the family physician on such a subject with this class of people is controlling, and they were at once prepared to bear like testimony.

This is clearly the secret of much of this French testimony that Miss Thebeau was insane.

An illustration of the tricky disingenuousness of this witness is seen on page 65 of the record, where he at first affects ignorance of the fact that a sale had been made by this woman to defendant, and finally, after some difficulty, remembers that Dolson had told him. This silly display of feigned ignorance is by the man who had been spending his time, as he admits on cross-examination, in looking up testimony to prove that the woman was insane, with express reference to setting aside that sale, and who months previous had made an

affidavit on the subject. A guilty sense of lying, and of the dishonest work he had done in trying to manufacture a case, led him into this foolish attempt to appear disinterested.

Elizabeth Sutton. (Rec., p. 74.) Knew Miss Thebeau from 1832. Did not see her for three months before her death. In answer to a question as to what was her physical condition, the witness said, "Not good."

Question. What do you mean by "not good?"

Answer. I didn't consider her in her right mind. (Rec., p. 74.)

Often stopped at witness' house on her way from church. Would go into the kitchen and commence dancing. *Did this perhaps twice.* Rec., p. 75.) Would make her hands go as if playing a fiddle, and act very unbecoming a woman—acted indecently and vulgarly. This manner of conduct was more frequent in her later years.

Her mind would run from one thing to another.

Told witness she had been offered $7,000 for her property, and asked if she should take it. Witness advised her it was worth $10,000. (Rec., p. 75.) She said, "When I sell I will let you know."

Would scold people and call them beggars, and say they pretended to be pretty good christians, but they are beggars. She would say, "Look at them tell about their religion and all that, but they are nothing but sly devils." (Rec., p. 76.)

Dressed poorly, and about the same summer and winter.

Does not think she was capable of transacting business on the 24th of November, 1863.

Cross-examination. (Rec., p. 77.) *Advised her to sell when she could get* $10,000 *for the property.*

Mrs. Julia Curyenn. (Rec., p. 78.) Knew Miss Thebeau for thirty years. Did not see much of her for six months before she died.

"She talked like an old fool." "Sometimes she would talk on one thing, and jump on another story, like that." Witness illustrates how she changed from one subject to another. (Rec., p. 79.)

Never saw her dance, but has seen her with *an umbrella spread* when neither rain nor snow was falling.

"Dressed like an old fool. She didn't seem to change; well, the way I can say, she always was the same thing; she always was very cunning all the time; and then she begin to talk to me sometimes about the property, and she says somebody want to buy the property, but we better not sell, because by and by we will have it covered with gold, and I never going to sell it until I have my price for it."

Speaking of selling the property, she said, "I won't let them have it. They will abuse me, and you know very well. I have got a nephew, and he will have it when I be dead."

The last time witness talked with her she gave as a reason why she did not go and live with her nephew "I don't agree with the young folks, and they will destroy my fences and trees, and they will not have anything nor me either; and they will have it later afterwards." (Rec., p. 80.)

Saw nothing on her table but very poor butter, tea and hard bread.

Does not think she was capable of conveying her property.

Cross-Examination. (Rec., p. 81.) *Advised her to sell her property.* She declined to sell unless she could get her price.

Notwithstanding the opinion of the two last witnesses that she was crazy and not

capable of conveying her property, they both advised her to sell it, they say.

As in the case of the other witnesses, all of her talk that they give indicates coherence, ordinary good sense and intelligence.

Louisa Cuson. (Rec., p. 81.) Knew Miss Thebeau for twenty-three years.

Sometimes she acted very rationally and sometimes very foolish. Would abuse the children if they did not behave to suit her. After taking a meal at witness' table would get angry and abuse her.

Used vulgar language sometimes. When she was sick the last time, the house was dirty, the weather was cold, but she didn't want a fire. She was fickle, changeable. Told about seeing ghosts. Said she saw the mother-in-law of witness. Talked about dreams also. (Rec., p. 83.)

Dressed poorly, the same clothing winter and summer. Was very dirty in her person. "She was always pretty healthy. At the latter part she was not sick very long." "I Don't think she had any head to do any business at any time." Rec., p. 85.)

On cross-examination (Rec., pp. 85-6), this witness says she had been subpœnaed on behalf of the defendant. That she had talked with one Naggs (a procurer of testimony for complainant) within twenty-four hours. That Dr. Truedell's testimony was read to her. She denied having said to Herbert Bowen, in the presense of J. Wilkie Moore, that Miss Thebeau was a sane person.

In respect to this and the several other matters about which she was asked in this

connection, she is directly contradicted by the witnesses Bowen and Moore, as we shall hereafter see.

J. Wilkie Moore's testimony. (Rec., p. 118-19.)

Herbert Bowen's testimony. (Rec., p. 154-5.)

Dr. Truedell. (Rec., p. 95). Was recalled to introduce some further evidence of insanity. Found her sobbing and crying "many times."

Question. "How many do you think?"

Answer. "Probably a *couple of times*" during the year that I perceived her condition to be such as that as crying, sobbing and lamenting."

The last time was in October before her death, when she asked him to take care of her and he declined. "And then she would begin to cry and sob, and ask me for God's sake to do it."

There is testimony in the case tending to show that one of Miss Thebeau's family was of weak mind.

See *Dolson's* testimony. (Rec., p. 91.)

Burdeno's testimony. (Rec., p. 94.)

There are other witnesses in the cause who testify to substantially the same state of facts.

Burdeno says her mother in her old age was afflicted with palsy. Had an ugly disposition, and "no sensible judgment."

Dolson says: After the father died, each member of the family had a separate table, and furnished his own food. This was in consequence of a division of the property. One of Miss Thebeau's brothers was of weak mind.

With the exception of this brother, the members of the family were not eccentric or weak in intellect.

The remainder of the testimony on behalf of complainant consists of abstract opinions of physicians.

Dr. George P. Andrews, record, page 87.

Dr. William H. Lathrop, record, page 92.
Dr. George P. Gilbert, record, page 96.

I submit that on the foregoing testimony, uncontradicted and unqualified, the complainant would not be entitled to relief.

Several of the witnesses say that the grantor was unsteady in conversation—liable to make sudden and abrupt transitions from one subject to another.

The vice of such statements as evidence is the element of uncertainty as to the witness's meaning. Each witness may carry in his mind a definition and a standard of his own as to coherence and continuity in talk, which is unlike that of every other. He, therefore, does not testify to facts, but gives his opinion simply upon facts within his own knowledge, and of which the court is not possessed.

But if these statements are to be treated as evidence, their value and weight must, in all cases, depend on the degree of intelligence and candor of the witness. A careful reading of this evidence cannot fail to dislcose the fact that most of these witnesses are of low order in this respect.

Your Honors will not fail to observe, what I have repeatedly called attention to in comments on the testimony of each witness, that the specimens given of this woman's conversation (always excepting those given by the witness Knapp) fail entirely and signally to support the opinion of the witness respecting her mental condition, capacity, etc. Frequently they afford striking illustrations of the ignorance of the witness.

Four of these witnesses—Emily Lagnon, Maria Jane Sutton, Elizabeth Sutton and Dr. Truedell—testify to the "rolling of her eyes," or "a wild look." It is a very

remarkable circumstance, if this be true, that the other numerous witnesses, many of whom saw her daily and were very intimate with her, either make no mention of this peculiarity, or deny that they ever observed it; certainly it is something that would not be likely to escape observation, especially if the habit was so marked as the testimony of Maria Jane Sutton (Record, page 46) tends to show.

Is not the conclusion justifiable, if not irresistible, that, this being one of the symptoms or "evidences of insanity," these witnesses have drawn on their imaginations for the fact of its existence? How simple the process!

Dr. Truedell's affidavit set forth a series of peculiarities, including this, of this woman, and closed with the opinion that she was afflicted with "chronic insanity." This affidavit was exhibited and read to the witnesses; they possess various degrees of imagination and fancy. Those of them who are particularly susceptible to impressions, like the Suttons and Mrs. Lagnon, readily recalled having seen her, when in exuberance of good feeling, dance to her own imaginary music on the violin, and remembered that her eyes were, at such times, brighter and more sparkling than usual; or were reminded of occasions when they had come suddenly upon her, as in the case of Mrs. Sutton once at the gate; or of seeing her open the door of her house in response to a sudden and unexpected rap, were quite prepared to bear testimony to the "rolling of her eyes."

An umbrella is made to play a prominent part. The effect of this feature of complainant's case has been greatly marred by the want of agreement of the witnesses in their statements as to how and when she carried it.

James W. Sutton says she always carried it under her arm, both "in sunshine and rain." Others say she always carried it spread, or open, without reference to the

weather, and others still say that she spread it only when it rained or the sun shone.

This hopeless conflict between complainant's witnesses on this important and all-controlling point, if the witnesses were only agreed about it, seems to render it certain that your Honors will have to determine the question of this woman's mental capacity without aid from the umbrella.

The testimony of the three physicians—Andrews, Lyster and Gilbert—goes only to the abstract definition of insanity. In the first place, the hypothetical case on which their opinions were asked does not correctly describe the condition of this woman. The variance is so great as to utterly destroy whatever value the opinions might otherwise have.

But, in the second place, such opinions by those who have never seen and observed the subject for themselves are entitled to little or no weight.

Winans vs. New York & Erie Railway, 21 How., 100.
II. Redfield on Wills, pp. 154–5.

ABSTRACT OF DEFENDANT'S TESTIMONY.

D. Henderson. (Record, page 98.) Knew Miss Thebeau; saw her frequently for fifteen years before she died. During two or three later years saw her almost every day. Am a Frenchman, and speak the language. Tried to buy her violin about a year before she died; offered her $3; she refused, because it was an old one, and worth more. Saw her in the fall preceding her death; spoke about having her clock repaired. Thinks she had her right mind.

She was very close about money matters; wanted to buy at lowest price. "Had a good ear for music." "Never saw anything out of the way" with her; she was talkative; was not ugly, but would get mad and complain at the boys for knocking plums off from her trees.

In August before her death, witness was made suddenly sick by drinking ice-water; she advised him to "go back into the tank and work as hard as he could;" "you will save yourself, otherwise you will die." Thinks "she was sensible enough to do business."

Cross-examination. (Record, page 101.) Never noticed that she changed rapidly from one subject to another in conversation, nor that she talked in an excited manner; did not know of her swearing or using profane language.

Margaret Thebo. (Record, page 104.) Knew Miss Thebeau for fourteen years; she used to come to witness' house two or three times a week and spend the evening. Heard her say she would like to sell her property if she could. Sometimes she talked a good deal, and others again but little; heard her say she would not give her property to Allore (complainant); said he married without her consent; that he had his share, she did not want

to give him hers; said this often. Does not think she was crazy; was odd and peculiar, dressed poorly, and the same, winter and summer.

Cross-examination. (Record, page 106.) She would get mad at us sometimes, and go off; would not let persons into the house until she found out what they wanted; carried an umbrella and a book; was a catholic; said once she had seen a ghost. (Record, p. 108.)

Mary A. Downes. (Record, page 108.) Knew Miss Thebeau for twelve years; lived on the opposite side of the street, very near her house; sold her milk sometimes; saw her on the streets frequently, and spoke with her; have seen and heard her scold the boys; she wore a calico dress always. "I did not see anything at all crazy about her."

Mary Lamere. (Record, page 110.) Knew Miss Thebeau. "During three years she was my neighbor." The last three years, used to see her once, and sometimes twice, a day. "She used to come in the evening; spend the evening often."

Said she would will her property to a rich person. She wore a calico dress; was not very clean about her person. "My opinion is, she was not crazy."

Cross-examination. (Record, page 111.) "She had oddities, peculiarities; if she was crazy it was a voracious craziness." Never told Dr. Truedell she was crazy; never talked with him about it. "During the three years she talked very-well; her conversation seemed to be very good."

Augustus F. Rochm. Record, page 111.) Knew Miss Thebeau from 1857. Lived in her neighborhood three or

four years; kept a meat market; sold her meat; she managed her own affairs "pretty close." "Should say she was sane."

Talked with her about buying her property. "She told me she didn't want to sell it just then; she had an offer, and she would let me know in a few days. That was the last I heard of it until I heard Mr. Jewell had it."

Leased of her a small piece of it once for an ice-house; made the contract with her; think she would understand perfectly a deed of conveyance of the property; she told him about her sale to Jewell.

Cross-examination. (Record, page 113.) I have not heard a thing of it (this case) until to-day. Heard nothing strange in her talk. She spoke broken English, but no other peculiarity about it; observed nothing peculiar about her; was not talkative unless she had something to say.

P. G. Belknap. (Record, page 115.) Knew Miss Thebeau for about ten years before her death; lived within 150 feet of her. Saw her several times each day; had frequent conversations with her. She often complained of boys. Did some carpenter work at her house about three years before her death. She wanted me at one time to lease one of her lots.

"I could not call her insane by any means." I think she was capable, from what little business I saw her transact, that she was capable of doing her own business.

"Have seen her carry an umbrella up, but it was when the sun shone, or it rained."

Cross-examination. (Record, page 116.) She was nervous and excitable; peculiar in her ways; exhibited nervousness in shaking her head, in motions, and in talking fast; inclined to sit and talk long. Offered to sell or to lease the property to him some three or four years before she died. She came to the shop frequently after chips.

At page 117 of the record, folio 378, the witness is made to say, "Many would probably think she was *sane* on some point." This is a misprint, and should have read *insane*. Again, at page 118 of the record, in the answer to the second question from the top of the page, the word *stupefied* should read *satisfied*.

J. Wilkie Moore. (Record, page 118.) Knows Madam Louise Cuson; was at her house with Mr. Bowen. Talked with her about "what she knew of Miss Thebeau." I asked her if she thought she was sane or insane. "Oh, Mr. Moore, she knew just as much as I do; no more insane than I or you." Said she had heard her converse about the property and the conveyance to Mr. Jewell, and that she spoke very kindly of Gov. Jewell. "Called him her father because he had acted so kindly to her." She spoke of having heard her express a dislike for Allore, the complainant. She spoke of having seen Dr. Truedell's testimony.

I talked with Miss Thebeau once about selling her property. Called upon her to see if she would sell; said she wanted to sell; asked $6,500 for it; offered her $5,000; she said it was not enough; she would live a good many years, and it would be worth more soon.

Saw her for a number of years occasionally; used to meet her at church. "I don't think she was more unsound than any Frenchman—than myself." She was not unlike, in intellect and capacity, a majority of the old French citizens.

Cross-examination. (Record, page 120.) She was very plain in dress; lived in a shanty house, "very common,

very poor; there was not much in it; she lived pretty much alone."

She was eccentric—odd—"but I don't think more so than the body of Frenchmen when I came here." Have been looking up witnesses; called upon different ones.

Raphael Lamere. (Record, page 123.) Acquainted with Miss Thebeau the last year of her life; saw her nearly every day; talked with her about selling her property; said she was not well, and if she found a chance she would sell. This was towards fall of 1863. Said she wanted to sell to a rich man. The reason she gave for not wanting to sell to a poor man was that he might spend her property, and then she would find herself in the street. "I indicated Mr. Jewell to her."

Being under oath, according to my judgment she had her common sense.

Cross-examination. "I think she had her sense as common people." Have worked for Mr. Jewell nine years.

Victor Thebo. (Record, page 124.) Knew Miss Thebeau for the last fourteen years; saw her every day. She used to come to his house evenings and mornings; spent evenings there. She talked business; about selling her property. Her health was pretty good in 1863. She did not dress well.

Question. "What do you say as to her mind when you first knew her, whether sound or not?"

Answer. "I guess she was sound as I was." "Sound mind? She was." She came to the witness' house, and said to him, "I have got to make a better living than I did before;" said she wanted to make a bargain with Jewell; wanted to see Dolson. "I went up and told him. (Record, page 125.) Have seen her with an umbrella, but not up unless it rained or the sun shone.

Cross-examination. (Record, page 126.) Work for Jewell & Son, and have for twenty years. She dressed poorly, was stingy; sometimes without fuel in cold weather.

Frank Thebo. (Record, page 128.) Knew Miss Thebeau about thirteen years; for three years lived very near her. Talked with her a good deal; built a dock for her; used to let her have wood. She told witness about her sale to Jewell; said "Jewell is to pay me $500 as long as I live; I have got good security against the place that he should do so." * * * * "I will tell you my reason, and then you will see. Well, suppose I had sold out to Mr. Jewell and got my money; I would take and deposit it at the bank, and if the bank would break, where would my money be, and where would I be? You recollect Mr. Lyell, what quantities of money he had from poor people, and I might be caught in the same situation; but if I lose a year's income, I know the next year I have as much more coming." (Record, page 130.)

This conversation was six or seven days before she died.

"Miss Thebeau was just as sound of mind as I am myself; I don't class myself a first-minded man, probably, but I considered she was just as good as I was; she was a woman very close; she would cut a cent *in two*, and keep the other half, if she could; but in regard to her mind—in fact, her mind was as strong as anybody's, but she had this peculiar way of doing; she was so tight, it did form an opinion in some people's impression she was an uncommon woman." (Record, page 130.)

Cross-examination. In Jewell's employ, and have been for ten years.

Mrs. M. A. Bristol. (Record, page 131.) Am the daughter of Major Brevoort. Knew Miss Thebeau forty

to fifty years. Resided on the River Road forty years; Miss Thebeau then resided at the same place where she died. Saw her at church frequently; saw her a month or two before she died. The year before her death saw her five or six times. "Always had a chat;" when they met, talked about old times, changes, etc. Was at her house the day before she died; found her walking about the house, but she went to bed. "It never entered my mind she was insane." She was "kind of odd, and very stingy, they said; had the reputation of being very rich, but I don't think she had anything; was a poor woman." "I never thought she was unsound; I thought she was all right." (Record, page 133.)

Cross-examination. She wore a faded calico dress and a cotton shawl; cheaply dressed, and looked cold.

Carried an umbrella always, but never saw it spread when there was not occasion for it. Did not observe any appearance of "untidiness" about her; she was odd. Noticed nothing peculiar about her talk or manner of conduct in conversation.

"She would tell how different things were, and how they used to be; that they did not have things now as they used to have; everything was not as good as it used to be, and not as cheap." (Record, page 134.) She was odd in her looks and ways, more so than a majority of people.

John T. Ladue. (Record, page 135.) Knew Miss Thebeau from the fall of 1860; saw her perhaps twice a week. She came to collect rent of Eldred; he did not pay promptly. She complained that he treated her badly; that he took advantage of her being a woman, and avoided her. Saw her about six weeks before her death, at her house. Thought she was very miserly, but I never

had any thought but that she was bright in her intellect. (Record, page 136.)

There was nothing striking about her appearance except her manner of dress. "She never did anything or said anything that would astonish me, or at all make me think she was different from other people in her society."

Am partner of defendant; was interested in one of the lots, but have no interest now.

Witness describes the condition of the property, the building on it, etc. (Record, page 138.)

Have improved the property by docking out, filling in, etc. Improvements cost from $7,000 to $10,000.

Levi E. Dolson. (Record, page 139.) Resided in Detroit since 1827; knew Miss Thebeau about twenty-eight years; was proprietor of the tannery adjacent to the property she owned and lived on, for five years; carried on business there; continued business there for himself and others since 1850.

In 1828–9 boarded at a house where she used to visit, and thus got acquainted with her. From 1834 to 1850 saw her not so often; "she has been at my house frequently."

In reference to the sale of the property to defendant, he says: (Record, page 140):

"Victor Thebo stated to me that Miss Thebeau wanted to see me." I went to her according to her own request. "I think it was about the 22d or 23d of November, '63."

* * * * I went into her house and had a conversation with her. She said to me that she had something to say; she wanted to make arrangements with me to take

her to my house; she wanted to live with me, which proposition, by the way, had been made before frequently to me. I told her *that* I could not do; that my wife had no more house-room than she wanted, and I could not take her to my house. She said to me that she was in destitute circumstances; that she had not the money that people supposed she had, and that she wanted to make some arrangement.

I asked her, at that time, why she did not give herself away to her nephew, this young man here—I was not acquainted with the young man then—whether it would not be better to give herself away to him; he is all the relative you have, that you know anything of. She said, "You know what my opinion is in reference to that; *that* I will not do." And she said that the young man had married against her advice, and also that the property of her sister had been spent, a good deal of it, by him. These were the main objections that she made.

I then told her I could sell her property for her, and she could get the money and put it out at interest, and live better upon the money than she could any other way; the interest of the money would be sufficient to support her. Says I, "You say Cicotte offered you $6,500 for the property, and I think you had better sell it and put it out at interest." She said no; the property was worth, she thought, $9,000.

But after a conversation of this kind, she says, "I would like to dispose of it. I would rather dispose of it in the old French way; that is, give myself away to some one who will take care of me," that being the French custom. She said, "I would rather do that than any other way; I will not be troubled with having mortgages and losing money, etc." I said to her, "Mr. Jewell, who owns this tannery, I think, would be glad to buy your lot. In

fact, she said she would not sell it at all; she would give herself away in this way. In the course of the conversation, however, (we continued to talk on the subject), I said to her, "Now," says I, "Miss Thebeau, you have been living here in this way a number of years; it has been very foolish for you to do so. You recollect in '54 or '5, I rented this land to a man in Port Huron for five years for you, and when you came to make out the papers, you refused it. "Now," says I, "You lost a great deal of rent, and you have been living very miserably and poorly, and I think you ought to do something different; either have an income, or else give yourself away the way you speak." She said, finally, she wished she had what I got before in the disposition of the land for her. Then, after that, I asked her, "What will you take a year for the premises during your life time; how much? Says she, "Four hundred per year." I said to her, "That is not enough to support you." "Well," she says, "how much do you think you can get?" Says I, "I think I can get five hundred (500) a year." "Well," she said, "Mr. Dolson, if you can get me $500 a year for the premises, I will be very happy to dispose of it." Says I, "I will try to do so." That is my conversation with her.

Had no talk with Jewell about getting this property. When Jewell bid off the tannery property, he inquired whether her adjacent lot could not be bought or rented. After this talk with her, he saw Mr. Jewell, and told him how the property could be had. Jewell concluded to take it. (Record, pages 141–2.)

The papers were prepared and taken to her. He translated them to her into French; she executed the deed, the papers were exchanged, $250 was paid to her, which she gave to the witness and he deposited for her. She said she understood the papers, and he thinks she did. "I

know of no reason why she should not understand them." (Record, page 143.)

"It is known, I presume, that her education was a very fair education. In fact, I know of no woman of her age in the city of Detroit that had an education superior to hers; her book education. That makes me suppose she could understand a paper of this kind."

Without reference to her education, and regarding her mental capacity, "I believe she could understand the paper. It was my opinion at the time she understood it."

* * * * * * *

"Having had many conversations with her, I have been able to read her, and see how things have operated upon her mind. I will commence way back and pass rapidly. I will commence in the time of the French Revolution. A young man came from the Sauterre — he had fled to America—by the name of Gabriel Riesha, a priest, who established himself in Detroit about 1796. At that time the post of Detroit was a very small place—very few people. It appears her father, Theobald, was one of the principal French citizens of this place at that time, said to have been, in money matters, the richest man in Detroit. Mr. Riesha was a very excellent man, and finding a French flock—nothing but French—his ministration was divided from house to house. He was a very excellent and faithful man. I knew him well from my boyhood up.

She was educated under him, and was very much attached to him, and received her instruction and education from his instruction. In the course of time, somewhere about 1832, he died of the cholera, and of course many years before that her father had died, and the prestige of the family had kind of died out; they had dwindled down, become rather poor.

Riesha passing away, a new bishop was appointed in his place, Mr. Rosa, who never visited the family or took

any pains with her, and she became very much dissatisfied with the church. Because the priests were not as Riesha was, she found fault with the priests, and seemed rather soured against the church.

As I said, her education was very good, but she had her eccentricities. She really was different in many things from other people; there is no doubt about that. I will give you an instance of this: I recollect her saying to me, "Now, Mr. Dolson, you don't remember, but I do, the day before General Brock crossed over down here, and Detroit was taken. My father had $7,000 in silver in some kegs in the cellar, and he said, 'What shall we do with this money?' and I told my father we would take it and bury it, and we started right off and buried it near where Dr. Duffield's house used to stand, and it remained there until peace was made in 1814, and then, when peace was made, my father and brother went to look for it, but the Indians had burned the trees and marks, and they could not find it, and they came after me and wanted to know if I could not help them, and I went there, and, by jingo (that was a word she always used as a kind of exclamation), I went there, and I soon found the stump, and I spoke out and said to my father, 'There it is, there it is,' and father dug down and they struck the keg; they could not fool me on that.'

Another instance: She says to me, 'Mr. Dolson, you remember Captain Revere when he married my sister?' I said, 'Certainly, I do, Miss Thebeau.' 'Well,' says she, 'when he died—you know, he died the same week he was married—when he died, old Joe Mullane, the foolish old man, laid him out with his black broadcloth pantaloons on, and he was buried, and we never thought anything of it until a day or two after he was buried, then I says to Miss Weed, 'Didn't you give Mr. Revere some

money?' 'Yes,' she said, 'I gave him fifty dollars.' 'Has he spend it for anything?' 'No.' 'Well, he is buried with his pantaloons on; he has got the money in his pocket. By jingo, I will get it.' 'Why,' says the sister, 'how will you get it?' Says I, 'I will get it; I will show you.' I started up to St. Ann's Church, and then I took B——, the grave-digger in the night with me, and we went out with a lamp and dug open the grave, the cover we pried off, and I put my hands in, and, by jingo, I got the pocket with the fifty dollars.'

These are some of the peculiarities of the woman. She had curious ideas. She told me that in 1811, the year before the war, a man at their house died, and that he made noises in the upper part of the house, rolling an old cannon ball up there. Says I, 'It must be him.' She thought it was, because he died only a short time before. She had such notions as these in her head."

In respect to Dr. Truedell's statement that the witness said she was crazy, he says:

"I have been frequently in the habit of calling her crazy." * * * "I have frequently said in this way, 'Miss Thebeau, you are certainly crazy to live in this way,' and in speaking to persons who would talk to me about the way she was living, I would say, 'The woman is certainly crazy to live in this kind of way.' Have no interest in this matter."

Cross-examination. (Record, page 146.) Have been in Mr. Jewell's employ since 1862. When Miss Thebeau sent for me, the weather was bad and she was indisposed.

In January, a priest came to her house and wanted to administer the rite of extreme unction to her. Asked wit-

ness to leave the house, but he declined, and remained in the adjoining room.

A priest had been there before, and she refused to receive the rite. She told witness that persons rarely recovered after it.

Have spoken of her "as being a very singular and a very peculiar woman."

After her death, found ten dollars in the house, and a certificate of deposit for twenty-one dollars. She also had in bank $250.

Once agreed with a man at Port Huron for her to rent her property for $350.

Have known her to change her mind frequently with reference to offers she had made.

"She requested me to make a bargain with this man, and when she came to reflect, she said she had studied over it and come to think the whole matter over, moving away from her place, her trees, and all those things, she said, 'I think, Mr. Dolson, you may tell him I will not do it.'" (Record, page 149.)

Did not change much while he knew her, except when she was sick. Was quite unwell when the papers were executed. She could read and write English and read Latin very well. She could not talk English very well.

Marshall Jewell. (Record, p. 150.) Defendant in the cause. Knew Miss Thebeau. "Have seen her a great many times."

Dolson called upon him and informed him of her proposition to sell to him.

He describes his going to her house with the papers; being introduced to her; the execution of the papers, etc.

"I had seen her about there for ten years. * * I

think I asked her how old she was, and she told me sixty-two." I did not see but that she looked just as she always had.

Cross-examination. (Record, p. 151.) The house looked dirty; "evidences of misery and penury." Said to Dolson: "I don't see how any one could live in such a place; get her a bed or get her some clothing."

Knew her to be a very eccentric, queer woman, very penurious.

Re-direct examination. (Record, page 152.) Before commencement of this suit, never received any notice from complainant that he claimed the property.

Never sent word to him, or sought an interview with him.

Susan A. Abbott. (Record, page 152.) Am seventy-four years old; knew Miss Thebeau since she was a little girl; lived neighbor to her for twelve years; she was not crazy; "had her perfect mind, I think." She dressed poorly, was very stingy; "suffered rather than spend money for her own convenience."

Morris Farrell. (Record, page 153.) Saw Miss Thebeau in January before her death some four or five days. Was night watchman at Jewell's tannery. Made a fire for her, etc. Asked him to keep watch of her wood, and see that boys did not steal it.

Herbert Bowen. (Record, page 154.) Interviewed Madame Cuson as to her knowledge and opinion of Miss Thebeau; made a memorandum of what she said. "She said she lived just opposite Madame Thebeau for ten years, and she saw her two or three days prior to her death, and that she was then sane." That she heard her

speak of her conveyance to Governor Jewell, and expressed herself perfectly satisfied; that she had called Governor Jewell her father in her presence; that she did not think her insane, and had heard her express her dislike for Allore, the complainant. That she had been called upon by a lawyer to sign a paper, saying that Miss Thebeau was insane; that she refused because she did not so think; that she had seen Dr. Truedell's written evidence; it was shown to her by this lawyer.

Cross-examination. (Record, page 155.) Wrote the memoranda of what Madame Cuson said immediately on returning to the office; Mr. Moore was with me.

The testimony of the witness Dolson undoubtedly describes this woman, and indicates her exact mental condition with more accuracy and fairness than that of all the other witnesses. For this reason I have copied from it liberally in the foregoing abstract. His testimony also explains, or accounts for, many of her peculiarities.

She was of one of the old French families of Detroit. In her childhood her father was wealthy, and the family was much respected. She was well educated, after the manner of those times, and that class of settlers in the West, and was a teacher in the schools maintained by her church.

After the death of her father, while she was still young, the property was divided, and each member of the family thereafter supported himself; she received, as her share of the estate, the property in question. It consisted of two narrow lots, each fifty feet in width, lying on the Detroit river, only one of which extends to the river. On one of these lots was a small one-story-and-a-half house.

Here she resided, living alone most of the time for many years, and up to the date of her death.

This was the only property she was known to possess. The only means of support she is shown to have had was the small sums she must be presumed to have received from the rental of a part of her house, or one of the lots. How much this amounted to does not appear.

Some of the witnesses say she dressed poorly and was penurious! Is this to be considered as evidence of insanity or of mental derangement in one situated as was this woman! On the contrary, does it not tend very strongly to show that she fully appreciated her situation, and knew how to make the best of it?

At the time of her death, her nephew, the complainant, seems to have been her nearest relation, and the only one as near then living. What kind of a reliance for her support he was is sufficiently indicated. This little property, producing probably not half enough for her proper maintenance, was all that stood between her and the poor-house. Under these circumstances, well she might confine herself to a calico dress, pick up chips for fuel, and accept a gratuitous meal of victuals whenever opportunity offered. She was even justifiable, I think your Honors will agree with me, in declining to feed this complainant and his wife; although I exceedingly doubt the story of the witness Knapp and complainant as to that occurrence.

BELIEF IN DREAMS AND SPIRITS.

Some of the witnesses say that she had faith in dreams, and there is testimony which, if believed, tends to show that she thought spirits of the dead appeared, and were recognizable by the living; that she claimed to have seen them. The chief witnesses on this subject are:

Knapp. (Record, pages 54 and 55.)
Burdeno. (Record, pages 16 and 17.)
Truedell. (Record, page 79.)
Cuson. (Record, page 83.)

No other witness in this case, I believe, mentions her belief in spirits or dreams—not even Maria Jane Sutton!

Only three of these witnesses give any substantial statement that she ever made about seeing or believing in spirits.

This, then, could not have been a very marked feature in her mental condition. This belief, if we are to credit these witnesses, and assume that she had it, can not, in this condition of the proof, be considered a hobby with her. She was not carried away and her thoughts absorbed by it to any considerable degree.

If all persons who believe in dreams, or in the power of spirits of the dead to re-appear to the living, are to be judicially adjudged insane or idiotic, no time should be lost in enlarging the asylums for these unfortunates; for a large amount of additional room will be needed. It is claimed by spiritualists, and I believe it is true that they number in the United States several millions.

It is not pretended, whatever degree of confidence this woman had either in dreams or in the appearance of spirits, that it influenced or entered into the transaction in question.

For a judicial consideration of how far such belief ought to enter into the determination of the question of insanity, see

Robinson vs. Adams—Red. Am. Cases on Wills, p. 365.

VULGARITY AND PROFANITY.

Of the thirty-seven witnesses in the case on both sides only five speak of this habit, to wit:

Lafferty. (Record, page 36.)
Maria Jane Sutton. (Record, page 44.)
Truedell. (Record, pages 630—64.)
Elizabeth Sutton. (Record, page 75.)
Cuson. (Record, page 82.)

And not one of these favors us with a specimen either of her vulgarity or profane talk.

Will the court accept the opinions of witnesses that this woman used vulgar and profane language, and on these opinions alone consider the fact as proved, and give weight to it in arriving at a judgment as to her mental condition? Most certainly not. These "evidences of insanity," therefore, may be laid aside, and the fact treated as not proven.

FILTHY IN HER PERSON.

It appears in proof that in her last sickness, and after her death, vermin were observed on her person. This would indicate, and there is some evidence tending to show, that she had been neglectful of personal cleanliness.

Is not this untidiness the usual result of isolated life with persons of her class? She did not belong to the higher type of American citizenship. Neatness in personal and domestic habits is not one of the characteristics of the descendants of the early French settlers in this vicinity. She lived alone, and had but little society. She had few visitors, and those rarely at her house. Indifference to her personal appearance, and the condition of her domestic

affairs were the natural result. This indifference, which at first led to slight neglects in matters of personal habits and in household concerns, would inevitably degenerate, finally, into dirtiness. Mankind, generally, if the incentive that regard for the opinions of others affords, were removed, would rapidly fall into unclean ways of living. This woman in this only proved her sisterhood to the race,—that she was *like* the rest of us, not *unlike*, not insane.

There may, undoubtedly be such a degree of filthiness in the personal habits and life of an individual, as will afford very strong evidence of mental derangement. It is frequently one of the accompaniments of insanity, and quite generally, I believe, of idiocy. But a careful reading of the testimony shows that this woman was not in that condition. Only three or four of the witnesses speak of ever having observed any marked want of neatness in her person; and the observation of these is confined to her last illness and after her death.

Why she lived this hermit's life, I think, is quite fully explained in the testimony of Dolson. She had undoubtedly become a good deal embittered in her feelings towards the world, as she chiefly knew it.

It began with the priests of her church. From being a favorite and treated with a good deal of consideration by the bishop of her church, she had come to be treated only like the mass of other Catholics. At the time she had the former and more agreeable experience, her family was wealthy, now she was poor. She felt the contrast between *then* and *now*, and naturally, if not truthfully, drew the logical inference that money was the secret of it. Hence her denunciation of the priests, and saying that "all they wanted was money." I suspect that in this remark she uttered the idea of many unquestionably sane people in the world to-day, and at least a half truth.

To a simple minded and devoted Catholic the church

and its priests are the most important part of this world. She experienced this neglect of the priests at a time either a little before or just after her family was broken up, and within a short period of the time when she was deprived of the companionship of members of the family by death and other causes. Under these circumstances, smarting with a keen sense of wrong and injustice from the priests, she found a sort of relief in excluding herself and living apart from the rest of the world. We all find comfort in self-imposed martyrdom sometimes. There are people whose chief happiness is found in nursing a sorrow. They cling to it as a thing of joy.

This woman, apparently, cultivated the feeling that she was unjustly treated, and indulged in this life of exclusion until they matured into habits which continued with her until she died. Hence the peculiarities of her character—which has been aptly termed confirmed habit—as we see them portrayed in this testimony.

I have not commented on her manner of eating for the reason that only one witness testifies to anything remarkable about it. Maria Jane Sutton says that she ate with her fingers; did not use the knife and fork. One or two other witnesses say that she was a hearty eater; was blessed with a good appetite. The witness Sutton alone testifies to this idiotic habit. I feel fully justified, in view of all the evidence, in denouncing her statement on this subject as essentially false. The witness may have seen her eat with her fingers under circumstances and in a way that many uncultivated people may at any time be seen to do it, and if there existed any foundation in fact for her testimony in this behalf, it was nothing more than that; such a habit, if it characterized this woman, would have found confirmation in the testimony not only of the other witnesses at whose tables they say she often ate, but could

and would have been established by many other persons who knew her well.

The complainant should be held to have lost by *laches* all right to relief, even if the case made by him were stronger than it is. For seven years after the death of the grantor he asserted no claim, permitting the defendant in the meantime to make permanent improvements on the property to the value of from $7,000 to $10,000.

2 Story, C. C. R., 481.
3 Id., 611.
Hough vs. Richardson, 3 Id., 659.

I submit this case to the Court with entire confidence that the result will be a confirmation of the decree of the Circuit Court. The defendant is undoubtedly known both personally and by reputation to your honor.

It is to be regretted that you have not an equal knowledge of the complainant and the several witnesses in the cause. A critical reading of the testimony, however, will enable you to see "between the lines" sufficient indications of the character and degree of intelligence of the complainant and the witnesses, to properly appreciate them and their evidence.

E. W. MEDDAUGH,
Solicitor for Defendant.